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108TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPT 108–724, Part 1

9/11 RECOMMENDATIONS IMPLEMENTATION ACT

OCTOBER 4, 2004.—Ordered to be printed

Mr. HOEKSTRA, from the Permanent Select Committee on Intelligence, submitted the following

R E P O R T

TOGETHER WITH

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 10]

[Including cost estimate of the Congressional Budget Office]

The Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "9/11 Recommendations Implementation Act".

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Sec. 1012. Revised definition of national intelligence.
Sec. 1013. Joint procedures for operational coordination between Department of Defense and Central Intelligence Agency.
Sec. 1014. Role of National Intelligence Director in appointment of certain officials responsible for intelligence-related activities.
Sec. 1015. Initial appointment of the National Intelligence Director.
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Sec. 1031. Joint Intelligence Community Council.

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Subtitle E—Improvement of Education for the Intelligence Community

Sec. 1051. Modification of obligated service requirements under National Security Education Program.
Sec. 1052. Improvements to the National Flagship Language Initiative.
Sec. 1053. Establishment of scholarship program for English language studies for heritage community citizens of the United States within the National Security Education Program.
Sec. 1054. Sense of Congress with respect to language and education for the intelligence community; reports.
Sec. 1055. Advancement of foreign languages critical to the intelligence community.
Sec. 1056. Pilot project for Civilian Linguist Reserve Corps.
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SEC. 1001. SHORT TITLE.

This title may be cited as the "National Security Intelligence Improvement Act of 2004".

Subtitle A—Establishment of National Intelligence Director

SEC. 1011. REORGANIZATION AND IMPROVEMENT OF MANAGEMENT OF INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking sections 102 through 104 and inserting the following new sections:

"NATIONAL INTELLIGENCE DIRECTOR

"SEC. 102. (a) NATIONAL INTELLIGENCE DIRECTOR.—(1) There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The National Intelligence Director shall not be located within the Executive Office of the President.

"(b) PRINCIPAL RESPONSIBILITY.—Subject to the authority, direction, and control of the President, the National Intelligence Director shall—

"(1) serve as head of the intelligence community;

"(2) act as the principal adviser to the President, to the National Security Council, and the Homeland Security Council for intelligence matters related to the national security; and

"(3) through the heads of the departments containing elements of the intelligence community, and the Central Intelligence Agency, manage and oversee the execution of the National Intelligence Program and direct the National Intelligence Program.

"(c) PROHIBITION ON DUAL SERVICE.—The individual serving in the position of National Intelligence Director shall not, while so serving, also serve as the Director of the Central Intelligence Agency or as the head of any other element of the intelligence community.

"RESPONSIBILITIES AND AUTHORITIES OF THE NATIONAL INTELLIGENCE DIRECTOR

"SEC. 102A. (a) PROVISION OF INTELLIGENCE.—(1) Under the direction of the President, the National Intelligence Director shall be responsible for ensuring that national intelligence is provided—

"(A) to the President;

"(B) to the heads of departments and agencies of the executive branch;

"(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders;

"(D) where appropriate, to the Senate and House of Representatives and the committees thereof; and

"(E) to such other persons as the National Intelligence Director determines to be appropriate.

"(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community and other appropriate entities.

"(b) ACCESS TO INTELLIGENCE.—To the extent approved by the President, the National Intelligence Director shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the National Intelligence Director.

"(c) BUDGET AUTHORITIES.—(1)(A) The National Intelligence Director shall develop and present to the President on an annual basis a budget for intelligence and intelligence-related activities of the United States.

"(B) In carrying out subparagraph (A) for any fiscal year for the components of the budget that comprise the National Intelligence Program, the National Intelligence Director shall provide guidance to the heads of departments containing elements of the intelligence community, and to the heads of the elements of the intelligence community, for development of budget inputs to the National Intelligence Director.

"(2)(A) The National Intelligence Director shall participate in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities.

"(B) The National Intelligence Director shall provide guidance for the development of the annual budget for each element of the intelligence community that is not within the National Intelligence Program.

"(3) In carrying out paragraphs (1) and (2), the National Intelligence Director may, as appropriate, obtain the advice of the Joint Intelligence Community Council.

"(4) The National Intelligence Director shall ensure the effective execution of the annual budget for intelligence and intelligence-related activities.

"(5)(A) The National Intelligence Director shall facilitate the management and execution of funds appropriated for the National Intelligence Program.

"(B) Notwithstanding any other provision of law, in receiving funds pursuant to relevant appropriations Acts for the National Intelligence Program, the Office of Management and Budget shall apportion funds appropriated for the National Intelligence Program to the National Intelligence Director for allocation to the elements of the intelligence community through the host executive departments that manage programs and activities that are part of the National Intelligence Program.

"(C) The National Intelligence Director shall monitor the implementation and execution of the National Intelligence Program by the heads of the elements of the intelligence community that manage programs and activities that are part of the National Intelligence Program, which may include audits and evaluations, as necessary and feasible.

"(6) Apportionment and allotment of funds under this subsection shall be subject to chapter 13 and section 1517 of title 31, United States Code, and the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.).

"(7)(A) The National Intelligence Director shall provide a quarterly report, beginning April 1, 2005, and ending April 1, 2007, to the President and the Congress regarding implementation of this section.

"(B) The National Intelligence Director shall report to the President and the Congress not later than 5 days after learning of any instance in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the National Intelligence Director, in carrying out the National Intelligence Program.

"(d) ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN REPROGRAMMING.—(1) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the National Intelligence Director,

except in accordance with procedures prescribed by the National Intelligence Director.

"(2) The Secretary of Defense shall consult with the National Intelligence Director before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

"(e) TRANSFER OF FUNDS OR PERSONNEL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget—

"(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

"(B) in accordance with procedures to be developed by the National Intelligence Director and the heads of the departments and agencies concerned, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

"(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

"(3) A transfer of funds or personnel may be made under this subsection only if—

"(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

"(B) the need for funds or personnel for such activity is based on unforeseen requirements; and

"(C) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency.

"(4) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

"(5) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

"(6)(A) The National Intelligence Director shall promptly submit to—

"(i) the congressional intelligence committees,

"(ii) in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and

"(iii) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives,

a report on any transfer of personnel made pursuant to this subsection.

"(B) The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

"(f) TASKING AND OTHER AUTHORITIES.—(1)(A) The National Intelligence Director shall—

"(i) develop collection objectives, priorities, and guidance for the intelligence community to ensure timely and effective collection, processing, analysis, and dissemination (including access by users to collected data consistent with applicable law and, as appropriate, the guidelines referred to in subsection (b) and analytic products generated by or within the intelligence community) of national intelligence;

"(ii) determine and establish requirements and priorities for, and manage and direct the tasking of, collection, analysis, production, and dissemination of national intelligence by elements of the intelligence community, including—

"(I) approving requirements for collection and analysis, and

"(II) resolving conflicts in collection requirements and in the tasking of national collection assets of the elements of the intelligence community; and

"(iii) provide advisory tasking to intelligence elements of those agencies and departments not within the National Intelligence Program.

"(B) The authority of the National Intelligence Director under subparagraph (A) shall not apply—

"(i) insofar as the President so directs;

"(ii) with respect to clause (ii) of subparagraph (A), insofar as the Secretary of Defense exercises tasking authority under plans or arrangements agreed upon by the Secretary of Defense and the National Intelligence Director; or

"(iii) to the direct dissemination of information to State government and local government officials and private sector entities pursuant to sections 201 and 892 of the Homeland Security Act of 2002 (6 U.S.C. 121, 482).

"(2) The National Intelligence Director shall oversee the National Counterterrorism Center and may establish such other national intelligence centers as the Director determines necessary.

"(3)(A) The National Intelligence Director shall prescribe community-wide personnel policies that—

"(i) facilitate assignments across community elements and to the intelligence centers;

"(ii) establish overarching standards for intelligence education and training; and

"(iii) promote the most effective analysis and collection of intelligence by ensuring a diverse workforce, including the recruitment and training of women, minorities, and individuals with diverse, ethnic, and linguistic backgrounds.

"(B) In developing the policies prescribed under subparagraph (A), the National Intelligence Director shall consult with the heads of the departments containing the elements of the intelligence community.

"(C) Policies prescribed under subparagraph (A) shall not be inconsistent with the personnel policies otherwise applicable to members of the uniformed services.

"(4) The National Intelligence Director shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency and shall ensure such compliance by other elements of the intelligence community through the host executive departments that manage the programs and activities that are part of the National Intelligence Program.

"(5) The National Intelligence Director shall ensure the elimination of waste and unnecessary duplication within the intelligence community.

"(6) The National Intelligence Director shall perform such other functions as the President may direct.

Nothing in this Act shall be construed as affecting the role of the Department of Justice or the Attorney General with respect to applications under the Foreign Intelligence Surveillance Act of 1978.

"(g) INTELLIGENCE INFORMATION SHARING.—(1) The National Intelligence Director shall have principal authority to ensure maximum availability of and access to intelligence information within the intelligence community consistent with national security requirements. The National Intelligence Director shall—

"(A) establish uniform security standards and procedures;

"(B) establish common information technology standards, protocols, and interfaces;

"(C) ensure development of information technology systems that include multi-level security and intelligence integration capabilities; and

"(D) establish policies and procedures to resolve conflicts between the need to share intelligence information and the need to protect intelligence sources and methods.

"(2) The President shall ensure that the National Intelligence Director has all necessary support and authorities to fully and effectively implement paragraph (1).

"(3) Except as otherwise directed by the President or with the specific written agreement of the head of the department or agency in question, a Federal agency or official shall not be considered to have met any obligation to provide any information, report, assessment, or other material (including unevaluated intelligence information) to that department or agency solely by virtue of having provided that information, report, assessment, or other material to the National Intelligence Director or the National Counterterrorism Center.

"(4) Not later than February 1 of each year, the National Intelligence Director shall submit to the President and to the Congress an annual report that identifies any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively implement paragraph (1).

"(h) ANALYSIS.—(1) The National Intelligence Director shall ensure that all elements of the intelligence community strive for the most accurate analysis of intelligence derived from all sources to support national security needs.

"(2) The National Intelligence Director shall ensure that intelligence analysis generally receives the highest priority when distributing resources within the intelligence community and shall carry out duties under this subsection in a manner that—

"(A) develops all-source analysis techniques;

"(B) ensures competitive analysis;

"(C) ensures that differences in judgment are fully considered and brought to the attention of policymakers; and

"(D) builds relationships between intelligence collectors and analysts to facilitate greater understanding of the needs of analysts.

"(i) PROTECTION OF INTELLIGENCE SOURCES AND METHODS.—(1) In order to protect intelligence sources and methods from unauthorized disclosure and, consistent with that protection, to maximize the dissemination of intelligence, the National Intelligence Director shall establish and implement guidelines for the intelligence community for the following purposes:

"(A) Classification of information.

"(B) Access to and dissemination of intelligence, both in final form and in the form when initially gathered.

"(C) Preparation of intelligence products in such a way that source information is removed to allow for dissemination at the lowest level of classification possible or in unclassified form to the extent practicable.

"(2) The Director may only delegate a duty or authority given the Director under this subsection to the Deputy National Intelligence Director.

"(j) UNIFORM PROCEDURES FOR SENSITIVE COMPARTMENTED INFORMATION.—The President, acting through the National Intelligence Director, shall—

"(1) establish uniform standards and procedures for the grant of access to sensitive compartmented information to any officer or employee of any agency or department of the United States and to employees of contractors of those agencies or departments;

"(2) ensure the consistent implementation of those standards and procedures throughout such agencies and departments;

"(3) ensure that security clearances granted by individual elements of the intelligence community are recognized by all elements of the intelligence community, and under contracts entered into by those agencies; and

"(4) ensure that the process for investigation and adjudication of an application for access to sensitive compartmented information is performed in the most expeditious manner possible consistent with applicable standards for national security.

"(k) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the President and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the National Intelligence Director shall oversee the coordination of the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

"(l) ENHANCED PERSONNEL MANAGEMENT.—(1)(A) The National Intelligence Director shall, under regulations prescribed by the Director, provide incentives for personnel of elements of the intelligence community to serve—

"(i) on the staff of the National Intelligence Director;

"(ii) on the staff of the national intelligence centers;

"(iii) on the staff of the National Counterterrorism Center; and

"(iv) in other positions in support of the intelligence community management functions of the Director.

"(B) Incentives under subparagraph (A) may include financial incentives, bonuses, and such other awards and incentives as the Director considers appropriate.

"(2)(A) Notwithstanding any other provision of law, the personnel of an element of the intelligence community who are assigned or detailed under paragraph (1)(A) to service under the National Intelligence Director shall be promoted at rates equivalent to or better than personnel of such element who are not so assigned or detailed.

"(B) The Director may prescribe regulations to carry out this section.

"(3)(A) The National Intelligence Director shall prescribe mechanisms to facilitate the rotation of personnel of the intelligence community through various elements of the intelligence community in the course of their careers in order to facilitate the widest possible understanding by such personnel of the variety of intelligence requirements, methods, users, and capabilities.

"(B) The mechanisms prescribed under subparagraph (A) may include the following:

"(i) The establishment of special occupational categories involving service, over the course of a career, in more than one element of the intelligence community.

"(ii) The provision of rewards for service in positions undertaking analysis and planning of operations involving two or more elements of the intelligence community.

"(iii) The establishment of requirements for education, training, service, and evaluation that involve service in more than one element of the intelligence community.

"(C) It is the sense of Congress that the mechanisms prescribed under this subsection should, to the extent practical, seek to duplicate for civilian personnel within the intelligence community the joint officer management policies established by chapter 38 of title 10, United States Code, and the other amendments made by title IV of the Goldwater–Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433).

"(4)(A) This subsection shall not apply with respect to personnel of the elements of the intelligence community who are members of the uniformed services or law enforcement officers (as that term is defined in section 5541(3) of title 5, United States Code).

"(B) Assignment to the Office of the National Intelligence Director of commissioned officers of the Armed Forces shall be considered a joint-duty assignment for purposes of the joint officer management policies prescribed by chapter 38 of title 10, United States Code, and other provisions of that title.

"(m) ADDITIONAL AUTHORITY WITH RESPECT TO PERSONNEL.—(1) In addition to the authorities under subsection (f)(3), the National Intelligence Director may exercise with respect to the personnel of the Office of the National Intelligence Director any authority of the Director of the Central Intelligence Agency with respect to the personnel of the Central Intelligence Agency under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), and other applicable provisions of law, as of the date of the enactment of this subsection to the same extent, and subject to the same conditions and limitations, that the Director of the Central Intelligence Agency may exercise such authority with respect to personnel of the Central Intelligence Agency.

"(2) Employees and applicants for employment of the Office of the National Intelligence Director shall have the same rights and protections under the Office of the National Intelligence Director as employees of the Central Intelligence Agency have under the Central Intelligence Agency Act of 1949, and other applicable provisions of law, as of the date of the enactment of this subsection.

"(n) ACQUISITION AUTHORITIES.—(1) In carrying out the responsibilities and authorities under this section, the National Intelligence Director may exercise the acquisition authorities referred to in the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.).

"(2) For the purpose of the exercise of any authority referred to in paragraph (1), a reference to the head of an agency shall be deemed to be a reference to the National Intelligence Director or the Deputy National Intelligence Director.

"(3)(A) Any determination or decision to be made under an authority referred to in paragraph (1) by the head of an agency may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final.

"(B) Except as provided in subparagraph (C), the National Intelligence Director or the Deputy National Intelligence Director may, in such official's discretion, delegate to any officer or other official of the Office of the National Intelligence Director any authority to make a determination or decision as the head of the agency under an authority referred to in paragraph (1).

"(C) The limitations and conditions set forth in section 3(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(d)) shall apply to the exercise by the National Intelligence Director of an authority referred to in paragraph (1).

"(D) Each determination or decision required by an authority referred to in the second sentence of section 3(d) of the Central Intelligence Agency Act of 1949 shall be based upon written findings made by the official making such determination or decision, which findings shall be final and shall be available within the Office of the National Intelligence Director for a period of at least six years following the date of such determination or decision.

"(o) CONSIDERATION OF VIEWS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.—In carrying out the duties and responsibilities under this section, the National Intelligence Director shall take into account the views of a head of a department containing an element of the intelligence community and of the Director of the Central Intelligence Agency.

"OFFICE OF THE NATIONAL INTELLIGENCE DIRECTOR

"SEC. 103. (a) ESTABLISHMENT OF OFFICE; FUNCTION.—(1) There is an Office of the National Intelligence Director. The Office of the National Intelligence Director shall not be located within the Executive Office of the President.

"(2) The function of the Office is to assist the National Intelligence Director in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by the President or by law.

"(3) Any authority, power, or function vested by law in any officer, employee, or part of the Office of the National Intelligence Director is vested in, or may be exercised by, the National Intelligence Director.

"(4) Exemptions, exceptions, and exclusions for the Central Intelligence Agency or for personnel, resources, or activities of such Agency from otherwise applicable laws, other than the exception contained in section 104A(c)(1) shall apply in the same manner to the Office of the National Intelligence Director and the personnel, resources, or activities of such Office.

"(b) OFFICE OF NATIONAL INTELLIGENCE DIRECTOR.—(1) The Office of the National Intelligence Director is composed of the following:

"(A) The National Intelligence Director.

"(B) The Deputy National Intelligence Director.

"(C) The Deputy National Intelligence Director for Operations.

"(D) The Deputy National Intelligence Director for Community Management and Resources.

"(E) The Associate National Intelligence Director for Military Support.

"(F) The Associate National Intelligence Director for Domestic Security.

"(G) The Associate National Intelligence Director for Diplomatic Affairs.

"(H) The National Intelligence Council.

"(I) The General Counsel to the National Intelligence Director.

"(J) Such other offices and officials as may be established by law or the National Intelligence Director may establish or designate in the Office.

"(2) To assist the National Intelligence Director in fulfilling the duties and responsibilities of the Director, the Director shall employ and utilize in the Office of the National Intelligence Director a staff having expertise in matters relating to such duties and responsibilities and may establish permanent positions and appropriate rates of pay with respect to such staff.

"(c) DEPUTY NATIONAL INTELLIGENCE DIRECTOR.—(1) There is a Deputy National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Deputy National Intelligence Director shall assist the National Intelligence Director in carrying out the responsibilities of the National Intelligence Director under this Act.

"(3) The Deputy National Intelligence Director shall act for, and exercise the powers of, the National Intelligence Director during the absence or disability of the National Intelligence Director or during a vacancy in the position of the National Intelligence Director.

"(4) The Deputy National Intelligence Director takes precedence in the Office of the National Intelligence Director immediately after the National Intelligence Director.

"(d) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR OPERATIONS.—(1) There is a Deputy National Intelligence Director for Operations.

"(2) The Deputy National Intelligence Director for Operations shall—

"(A) assist the National Intelligence Director in all aspects of intelligence operations, including intelligence tasking, requirements, collection, and analysis;

"(B) assist the National Intelligence Director in overseeing the national intelligence centers; and

"(C) perform such other duties and exercise such powers as National Intelligence Director may prescribe.

"(e) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR COMMUNITY MANAGEMENT AND RESOURCES.—(1) There is a Deputy National Intelligence Director for Community Management and Resources.

"(2) The Deputy National Intelligence Director for Community Management and Resources shall—

"(A) assist the National Intelligence Director in all aspects of management and resources, including administration, budgeting, information security, personnel, training, and programmatic functions; and

"(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

"(f) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR MILITARY SUPPORT.—(1) There is an Associate National Intelligence Director for Military Support who shall be appointed by the National Intelligence Director, in consultation with the Secretary of Defense.

"(2) The Associate National Intelligence Director for Military Support shall—

"(A) ensure that the intelligence needs of the Department of Defense are met; and

"(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

"(g) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR DOMESTIC SECURITY.—(1) There is an Associate National Intelligence Director for Domestic Security who shall be appointed by the National Intelligence Director in consultation with the Attorney General and the Secretary of Homeland Security.

"(2) The Associate National Intelligence Director for Domestic Security shall—

"(A) ensure that the intelligence needs of the Department of Justice, the Department of Homeland Security, and other relevant executive departments and agencies are met; and

"(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe, except that the National Intelligence Director may not make such officer responsible for disseminating any domestic or homeland security information to State government or local government officials or any private sector entity.

"(h) ASSOCIATE NATIONAL INTELLIGENCE DIRECTOR FOR DIPLOMATIC AFFAIRS.—(1) There is an Associate National Intelligence Director for Diplomatic Affairs who shall be appointed by the National Intelligence Director in consultation with the Secretary of State.

"(2) The Associate National Intelligence Director for Diplomatic Affairs shall—

"(A) ensure that the intelligence needs of the Department of State are met; and

"(B) perform such other duties and exercise such powers as the National Intelligence Director may prescribe.

"(i) MILITARY STATUS OF DIRECTOR AND DEPUTY DIRECTORS.—(1) Not more than one of the individuals serving in the positions specified in paragraph (2) may be a commissioned officer of the Armed Forces in active status.

"(2) The positions referred to in this paragraph are the following:

"(A) The National Intelligence Director.

"(B) The Deputy National Intelligence Director.

"(3) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (2)—

"(A) be a commissioned officer of the Armed Forces, in active status; or

"(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

"(4) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (2)—

"(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

"(C) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

"(5) Except as provided in subparagraph (A) or (B) of paragraph (4), the appointment of an officer of the Armed Forces to a position specified in paragraph (2) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

"(6) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (2), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the National Intelligence Director.

"(j) NATIONAL INTELLIGENCE COUNCIL.—(1) There is a National Intelligence Council.

"(2)(A) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the National Intelligence Director.

"(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

"(3) The National Intelligence Council shall—

"(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community;

"(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

"(C) otherwise assist the National Intelligence Director in carrying out the responsibilities of the Director.

"(4) Within their respective areas of expertise and under the direction of the National Intelligence Director, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

"(5) Subject to the direction and control of the National Intelligence Director, the National Intelligence Council may carry out its responsibilities under this subsection by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this subsection.

"(6) The National Intelligence Director shall make available to the National Intelligence Council such personnel as may be necessary to permit the Council to carry out its responsibilities under this subsection.

"(7)(A) The National Intelligence Director shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

"(B) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

"(8) The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the National Intelligence Director.

"(k) GENERAL COUNSEL TO THE NATIONAL INTELLIGENCE DIRECTOR.—(1) There is a General Counsel to the National Intelligence Director.

"(2) The individual serving in the position of General Counsel to the National Intelligence Director may not, while so serving, also serve as the General Counsel of any other agency or department of the United States.

"(3) The General Counsel to the National Intelligence Director is the chief legal officer for the National Intelligence Director.

"(4) The General Counsel to the National Intelligence Director shall perform such functions as the National Intelligence Director may prescribe.

"(l) INTELLIGENCE COMMUNITY INFORMATION TECHNOLOGY OFFICER.—(1) There is an Intelligence Community Information Technology Officer who shall be appointed by the National Intelligence Director.

"(2) The mission of the Intelligence Community Information Technology Officer is to assist the National Intelligence Director in ensuring the sharing of information in the fullest and most prompt manner between and among elements of the intelligence community consistent with section 102A(g).

"(3) The Intelligence Community Information Technology Officer shall—

"(A) assist the Deputy National Intelligence Director for Community Management and Resources in developing and implementing an integrated information technology network;

"(B) develop an enterprise architecture for the intelligence community and assist the Deputy National Intelligence Director for Community Management and Resources in ensuring that elements of the intelligence community comply with such architecture;

"(C) have procurement approval authority over all enterprise architecture-related information technology items funded in the National Intelligence Program;

"(D) ensure that all such elements have the most direct and continuous electronic access to all information (including unevaluated intelligence consistent with existing laws and the guidelines referred to in section 102A(b)) necessary for appropriately cleared analysts to conduct comprehensive all-source analysis and for appropriately cleared policymakers to perform their duties—

"(i) directly, in the case of the elements of the intelligence community within the National Intelligence Program, and

"(ii) in conjunction with the Secretary of Defense and other applicable heads of departments with intelligence elements outside the National Intelligence Program;

"(E) review and provide recommendations to the Deputy National Intelligence Director for Community Management and Resources on National Intelligence Program budget requests for information technology and national security systems;

"(F) assist the Deputy National Intelligence Director for Community Management and Resources in promulgating and enforcing standards on information technology and national security systems that apply throughout the elements of the intelligence community;

"(G) ensure that within and between the elements of the National Intelligence Program, duplicative and unnecessary information technology and national security systems are eliminated; and

"(H) pursuant to the direction of the National Intelligence Director, consult with the Director of the Office of Management and Budget to ensure that the Office of the National Intelligence Director coordinates and complies with national security requirements consistent with applicable law, Executive orders, and guidance; and

"(I) perform such other duties with respect to the information systems and information technology of the Office of the National Intelligence Director as may be prescribed by the Deputy National Intelligence Director for Community Management and Resources or specified by law.

"CENTRAL INTELLIGENCE AGENCY

"SEC. 104. (a) CENTRAL INTELLIGENCE AGENCY.—There is a Central Intelligence Agency.

"(b) FUNCTION.—The function of the Central Intelligence Agency is to assist the Director of the Central Intelligence Agency in carrying out the responsibilities specified in section 104A(c).

"DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 104A. (a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be under the authority, direction, and control of the National Intelligence Director, except as otherwise determined by the President.

"(b) DUTIES.—In the capacity as Director of the Central Intelligence Agency, the Director of the Central Intelligence Agency shall—

"(1) carry out the responsibilities specified in subsection (c); and

"(2) serve as the head of the Central Intelligence Agency.

"(c) RESPONSIBILITIES.—The Director of the Central Intelligence Agency shall—

"(1) collect intelligence through human sources and by other appropriate means, except that the Director of the Central Intelligence Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

"(2) provide overall direction for the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

"(3) correlate and evaluate intelligence related to the national security and provide appropriate dissemination of such intelligence;

"(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the National Intelligence Director determines can be more efficiently accomplished centrally; and

"(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Intelligence Director may direct.

"(d) DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.—There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President. The Deputy Director shall perform such functions as the Director may prescribe and shall perform the duties of the Director during the Director's absence or disability or during a vacancy in the position of the Director of the Central Intelligence Agency.

"(e) TERMINATION OF EMPLOYMENT OF CIA EMPLOYEES.—(1) Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the discretion of the Director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

"(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.".

(b) FIRST DIRECTOR.—(1) When the Senate receives the nomination of a person for the initial appointment by the President for the position of National Intelligence Director, it shall consider and dispose of such nomination within a period of 30 legislative days.

(2) If the Senate does not dispose of such nomination referred to in paragraph (1) within such period—

(A) Senate confirmation is not required; and

(B) the appointment of such nominee as National Intelligence Director takes effect upon administration of the oath of office.

(3) For the purposes of this subsection, the term "legislative day" means a day on which the Senate is in session.

SEC. 1012. REVISED DEFINITION OF NATIONAL INTELLIGENCE.

Paragraph (5) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

"(5) The terms 'national intelligence' and 'intelligence related to national security' refer to all intelligence, regardless of the source from which derived and including information gathered within or outside the United States, that—

"(A) pertains, as determined consistent with any guidance issued by the President, to more than one United States Government agency; and

"(B) that involves—

"(i) threats to the United States, its people, property, or interests;

"(ii) the development, proliferation, or use of weapons of mass destruction; or

"(iii) any other matter bearing on United States national or homeland security.".

SEC. 1013. JOINT PROCEDURES FOR OPERATIONAL COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY.

(a) DEVELOPMENT OF PROCEDURES.—The National Intelligence Director, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

(1) Methods by which the Director of the Central Intelligence Agency and the Secretary of Defense can improve communication and coordination in the planning, execution, and sustainment of operations, including, as a minimum—

(A) information exchange between senior officials of the Central Intelligence Agency and senior officers and officials of the Department of Defense when planning for such an operation commences by either organization; and

(B) exchange of information between the Secretary and the Director of the Central Intelligence Agency to ensure that senior operational officials in both the Department of Defense and the Central Intelligence Agency have knowledge of the existence of the ongoing operations of the other.

(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, mutual agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of the Act, the National Intelligence Director shall submit to the congressional defense committees (as defined in section 101 of title 10, United States Code) and the congressional intelligence committees (as defined in section 3(7) of the National Security Act of 1947 (50 U.S.C. 401a(7))) a report describing the procedures established pursuant to subsection (a) and the status of the implementation of those procedures.

SEC. 1014. ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN APPOINTMENT OF CERTAIN OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is amended by striking all after the heading and inserting the following:

"(a) RECOMMENDATION OF NID IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the National Intelligence Director shall recommend to the President an individual for nomination to fill the vacancy.

"(2) Paragraph (1) applies to the following positions:

"(A) The Deputy National Intelligence Director.

"(B) The Director of the Central Intelligence Agency.

"(b) CONCURRENCE OF NID IN APPOINTMENTS TO POSITIONS IN THE INTELLIGENCE COMMUNITY.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the National Intelligence Director before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may not fill the vacancy or make the recommendation to the President (as the case may be).

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the National Security Agency.

"(B) The Director of the National Reconnaissance Office.

"(C) The Director of the National Geospatial-Intelligence Agency.

"(c) CONSULTATION WITH NATIONAL INTELLIGENCE DIRECTOR IN CERTAIN POSITIONS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the National Intelligence Director before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the Defense Intelligence Agency.

"(B) The Assistant Secretary of State for Intelligence and Research.

"(C) The Director of the Office of Intelligence of the Department of Energy.

"(D) The Director of the Office of Counterintelligence of the Department of Energy.

"(E) The Assistant Secretary for Intelligence and Analysis of the Department of the Treasury.

"(F) The Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

"(G) The Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.

"(H) The Deputy Assistant Commandant of the Coast Guard for Intelligence.

SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL INTELLIGENCE DIRECTOR.

(a) INITIAL APPOINTMENT OF THE NATIONAL INTELLIGENCE DIRECTOR.—Notwithstanding section 102(a)(1) of the National Security Act of 1947, as added by section 1011(a), the individual serving as the Director of Central Intelligence on the date immediately preceding the date of the enactment of this Act may, at the discretion of the President, become the National Intelligence Director as of the date of the enactment of this Act.

(b) GENERAL REFERENCES.—(1) Any reference to the Director of Central Intelligence in the Director's capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the National Intelligence Director.

(2) Any reference to the Director of Central Intelligence in the Director's capacity as the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of the Central Intelligence Agency.

(3) Any reference to the Deputy Director of Central Intelligence in the Deputy Director's capacity as deputy to the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Deputy National Intelligence Director.

(4) Any reference to the Deputy Director of Central Intelligence for Community Management in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Deputy National Intelligence Director for Community Management and Resources.

SEC. 1016. EXECUTIVE SCHEDULE MATTERS.

(a) EXECUTIVE SCHEDULE LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding the end the following new item:

"National Intelligence Director.".

(b) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following new items:

"Deputy National Intelligence Director.

"Director of the National Counterterrorism Center.".

(c) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the Assistant Directors of Central Intelligence.

Subtitle B—National Counterterrorism Center and Civil Liberties Protections

SEC. 1021. NATIONAL COUNTERTERRORISM CENTER.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

"NATIONAL COUNTERTERRORISM CENTER

"SEC. 119. (a) ESTABLISHMENT OF CENTER.—There is within the Office of the National Intelligence Director a National Counterterrorism Center.

"(b) DIRECTOR OF NATIONAL COUNTERTERRORISM CENTER.—There is a Director of the National Counterterrorism Center, who shall be the head of the National Counterterrorism Center, who shall be appointed by National Intelligence Director.

"(c) SUPERVISION.—The Director of the National Counterterrorism Center shall report to the National Intelligence Director on—

"(1) the budget and programs of the National Counterterrorism Center;

"(2) the activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (h);

"(3) the conduct of intelligence operations implemented by other elements of the intelligence community; and

"(4) the planning and progress of joint counterterrorism operations (other than intelligence operations).

The National Intelligence Director shall carry out this section through the Deputy National Intelligence Director for Operations.

"(d) PRIMARY MISSIONS.—The primary missions of the National Counterterrorism Center shall be as follows:

"(1) To serve as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic counterterrorism.

"(2) To conduct strategic operational planning for counterterrorism activities, integrating all instruments of national power, including diplomatic, financial, military, intelligence, homeland security, and law enforcement activities within and among agencies.

"(3) To support operational responsibilities assigned to lead agencies for counterterrorism activities by ensuring that such agencies have access to and receive intelligence needed to accomplish their assigned activities.

"(4) To ensure that agencies, as appropriate, have access to and receive all-source intelligence support needed to execute their counterterrorism plans or perform independent, alternative analysis.

"(e) DOMESTIC COUNTERTERRORISM INTELLIGENCE.—(1) The Center may, consistent with applicable law, the direction of the President, and the guidelines referred to in section 102A(b), receive intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence.

"(2) Any agency authorized to conduct counterterrorism activities may request information from the Center to assist it in its responsibilities, consistent with applicable law and the guidelines referred to in section 102A(b).

"(f) DUTIES AND RESPONSIBILITIES OF DIRECTOR.—The Director of the National Counterterrorism Center shall—

"(1) serve as the principal adviser to the National Intelligence Director on intelligence operations relating to counterterrorism;

"(2) provide strategic guidance and plans for the civilian and military counterterrorism efforts of the United States Government and for the effective integration of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

"(3) advise the National Intelligence Director on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President;

"(4) disseminate terrorism information, including current terrorism threat analysis, to the President, the Vice President, the Secretaries of State, Defense, and Homeland Security, the Attorney General, the Director of the Central Intelligence Agency, and other officials of the executive branch as appropriate, and to the appropriate committees of Congress;

"(5) support the Department of Justice and the Department of Homeland Security, and other appropriate agencies, in fulfillment of their responsibilities to

disseminate terrorism information, consistent with applicable law, Executive Orders and other Presidential guidance, to State and local government officials, and other entities, and coordinate dissemination of terrorism information to foreign governments as approved by the National Intelligence Director;

"(6) consistent with priorities approved by the President, assist the National Intelligence Director in establishing requirements for the intelligence community for the collection of terrorism information; and

"(7) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law.

"(g) LIMITATION.—The Director of the National Counterterrorism Center may not direct the execution of counterterrorism operations.

"(h) RESOLUTION OF DISPUTES.—The National Intelligence Director shall resolve disagreements between the National Counterterrorism Center and the head of a department, agency, or element of the United States Government on designations, assignments, plans, or responsibilities. The head of such a department, agency, or element may appeal the resolution of the disagreement by the National Intelligence Director to the President.

"(i) DIRECTORATE OF INTELLIGENCE.—The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence which shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations (except for purely domestic terrorism and domestic terrorist organizations) from all sources of intelligence, whether collected inside or outside the United States.

"(j) DIRECTORATE OF STRATEGIC PLANNING.—The Director of the National Counterterrorism Center shall establish and maintain within the National Counterterrorism Center a Directorate of Strategic Planning which shall provide strategic guidance and plans for counterterrorism operations conducted by the United States Government.".

(b) CLERICAL AMENDMENT.—The table of sections for the National Security Act of 1947 is amended by inserting after the item relating to section 118 the following new item:

"Sec. 119. National Counterterrorism Center.".

SEC. 1022. CIVIL LIBERTIES PROTECTION OFFICER.

(a) CIVIL LIBERTIES PROTECTION OFFICER.—(1) Within the Office of the National Intelligence Director, there is a Civil Liberties Protection Officer who shall be appointed by the National Intelligence Director.

(2) The Civil Liberties Protection Officer shall report directly to the National Intelligence Director.

(b) DUTIES.—The Civil Liberties Protection Officer shall—

(1) ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures developed for and implemented by the Office of the National Intelligence Director and the elements of the intelligence community within the National Intelligence Program;

(2) oversee compliance by the Office and the National Intelligence Director with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil liberties and privacy;

(3) review and assess complaints and other information indicating possible abuses of civil liberties and privacy in the administration of the programs and operations of the Office and the National Intelligence Director and, as appropriate, investigate any such complaint or information;

(4) ensure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(5) ensure that personal information contained in a system of records subject to section 552a of title 5, United States Code (popularly referred to as the 'Privacy Act'), is handled in full compliance with fair information practices as set out in that section;

(6) conduct privacy impact assessments when appropriate or as required by law; and

(7) perform such other duties as may be prescribed by the National Intelligence Director or specified by law.

(c) USE OF AGENCY INSPECTORS GENERAL.—When appropriate, the Civil Liberties Protection Officer may refer the Office of Inspector General having responsibility for the affected element of the department or agency of the intelligence community to conduct an investigation under paragraph (3) of subsection (b).

SEC. 1023. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) IN GENERAL.—There is established within the intelligence community a Privacy and Civil Liberties Oversight Board (referred to in this title as the "Board").

(b) PURPOSE.—The Board shall ensure that concerns with respect to civil liberties and privacy are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts of the intelligence community to protect the Nation against terrorism.

(c) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review the implementation of new and existing legislation, regulations, and policies related to efforts of the intelligence community to protect the Nation from terrorism, including the implementation of intelligence information sharing pursuant to section 102A(g) of the National Security Act of 1947 (as amended by section 1011(a));

(B) advise the National Intelligence Director and, through the National Intelligence Director, the heads of the Federal executive departments and agencies to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(C) review proposed legislation, regulations, and policies to ensure—

(i) that the proposals materially enhance security; and

(ii) that there is adequate supervision of the use of the power to ensure protection of civil liberties and privacy.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures and the implementation of the regulations, policies, procedures, and related laws pertaining to the intelligence community to ensure that privacy and civil liberties are protected; and

(B) the intelligence information sharing practices of the intelligence community to determine whether they appropriately protect privacy and civil liberties and adhere to the intelligence information sharing guidelines promulgated under such section 102A(g) and to other governing laws, regulations, and policies regarding the protection of privacy and civil liberties.

(d) REPORTS.—

(1) IN GENERAL.—The Board shall—

(A) receive and review reports from the Civil Liberties Protection Officer described in section 1022; and

(B) periodically submit, not less than annually, reports to the National Intelligence Director and the Congress.

(2) CONTENTS.—Each report submitted under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the reporting period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (c).

(e) INFORMING THE PUBLIC.—Subject to the direction of the National Intelligence Director, the Board may hold public forums, publish public reports, and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(f) ACCESS TO INFORMATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board may—

(1) request the National Intelligence Director to secure directly from any element of the intelligence community and other Federal agencies, all relevant records, reports, audits, reviews, documents, papers, or recommendations, including classified information consistent with applicable law; and

(2) interview, take statements from, or take testimony from personnel of any element of the intelligence community.

(g) MEMBERSHIP.—

(1) MEMBERS.—The Board shall be composed of a chairman and 4 additional members, who shall be appointed by the President, upon the recommendation of the National Intelligence Director.

(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, and relevant experience, and without regard to political affiliation.

(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, an officer, or an employee of the Federal Government, other than in the capacity as a member of the Board.

(h) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position

at level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day during which the chairman is engaged in the actual performance of the duties of the Board.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(i) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAILEES.—The National Intelligence Director may detail any Federal employee within an element of the intelligence community to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(3) CONSULTANT SERVICES.—The Board may procure, through the National Intelligence Director, the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(j) SECURITY CLEARANCES.—The appropriate Executive agencies shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(k) APPLICATION OF FACA.—The Board is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)) for purposes of that Act.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle C—Joint Intelligence Community Council

SEC. 1031. JOINT INTELLIGENCE COMMUNITY COUNCIL.

(a) ESTABLISHMENT.—(1) There is hereby established a Joint Intelligence Community Council.

(b) FUNCTIONS.—(1) The Joint Intelligence Community Council shall provide advice to the National Intelligence Director as appropriate.

(2) The National Intelligence Director shall consult with the Joint Intelligence Community Council in developing guidance for the development of the annual National Intelligence Program budget.

(c) MEMBERSHIP.—The Joint Intelligence Community Council shall consist of the following:

(1) The National Intelligence Director, who shall chair the Council.

(2) The Secretary of State.

(3) The Secretary of the Treasury.

(4) The Secretary of Defense.

(5) The Attorney General.

(6) The Secretary of Energy.

(7) The Secretary of Homeland Security.

(8) Such other officials of the executive branch as the President may designate.

Subtitle D—Improvement of Human Intelligence (HUMINT)

SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY CRITICAL COMPONENT OF THE INTELLIGENCE COMMUNITY.

It is a sense of Congress that—

(1) the human intelligence officers of the intelligence community have performed admirably and honorably in the face of great personal dangers;

(2) during an extended period of unprecedented investment and improvements in technical collection means, the human intelligence capabilities of the United States have not received the necessary and commensurate priorities;

(3) human intelligence is becoming an increasingly important capability to provide information on the asymmetric threats to the national security of the United States;

(4) the continued development and improvement of a robust and empowered and flexible human intelligence work force is critical to identifying, understanding, and countering the plans and intentions of the adversaries of the United States; and

(5) an increased emphasis on, and resources applied to, enhancing the depth and breadth of human intelligence capabilities of the United States intelligence community must be among the top priorities of the National Intelligence Director.

SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE CAPACITY.

Not later than 6 months after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on existing human intelligence (HUMINT) capacity which shall include a plan to implement changes, as necessary, to accelerate improvements to, and increase the capacity of, HUMINT across the intelligence community.

Subtitle E—Improvement of Education for the Intelligence Community

SEC. 1051. MODIFICATION OF OBLIGATED SERVICE REQUIREMENTS UNDER NATIONAL SECURITY EDUCATION PROGRAM.

(a) IN GENERAL.—(1) Subsection (b)(2) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended to read as follows:

"(2) will meet the requirements for obligated service described in subsection (j); and".

(2) Such section is further amended by adding at the end the following new subsection:

"(j) REQUIREMENTS FOR OBLIGATED SERVICE IN THE GOVERNMENT.—(1) Each recipient of a scholarship or a fellowship under the program shall work in a specified national security position. In this subsection, the term 'specified national security position' means a position of a department or agency of the United States that the Secretary certifies is appropriate to use the unique language and region expertise acquired by the recipient pursuant to the study for which scholarship or fellowship assistance (as the case may be) was provided under the program.

"(2) Each such recipient shall commence work in a specified national security position as soon as practicable but in no case later than two years after the completion by the recipient of the study for which scholarship or fellowship assistance (as the case may be) was provided under the program.

"(3) Each such recipient shall work in a specified national security position for a period specified by the Secretary, which period shall include—

"(A) in the case of a recipient of a scholarship, one year of service for each year, or portion thereof, for which such scholarship assistance was provided, and

"(B) in the case of a recipient of a fellowship, not less than one nor more than three years for each year, or portion thereof, for which such fellowship assistance was provided.

"(4) Recipients shall seek specified national security positions as follows:

"(A) In the Department of Defense or in any element of the intelligence community.

"(B) In the Department of State or in the Department of Homeland Security, if the recipient demonstrates to the Secretary that no position is available in the Department of Defense or in any element of the intelligence community.

"(C) In any other Federal department or agency not referred to in subparagraphs (A) and (B), if the recipient demonstrates to the Secretary that no position is available in a Federal department or agency specified in such paragraphs.".

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out subsection (j) of section 802 of the David L. Boren National Security Education Act of 1991, as added by subsection (a). In prescribing such regulations, the Secretary shall establish standards that recipients of scholarship and fellowship assistance under the program under section 802 of the David L. Boren National Security Education Act of 1991 are required to demonstrate in order to satisfy the requirement of a good faith effort to gain employment as required under such subsection.

(c) APPLICABILITY.—(1) The amendments made by subsection (a) shall apply with respect to service agreements entered into under the David L. Boren National Security Education Act of 1991 on or after the date of the enactment of this Act.

(2) The amendments made by subsection (a) shall not affect the force, validity, or terms of any service agreement entered into under the David L. Boren National Security Education Act of 1991 before the date of the enactment of this Act that is in force as of that date.

SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAGSHIP LANGUAGE INITIATIVE.

(a) INCREASE IN ANNUAL AUTHORIZATION OF APPROPRIATIONS.—(1) Title VIII of the Intelligence Authorization Act for Fiscal Year 1992 (Public Law 102–183; 105 Stat. 1271), as amended by section 311(c) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103–178; 107 Stat. 2037) and by section 333(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2397), is amended in subsection (a) of section 811 by striking "there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, $10,000,000," and inserting "there is authorized to be appropriated to the Secretary for each of fiscal years 2003 and 2004, $10,000,000, and for fiscal year 2005 and each subsequent fiscal year, $12,000,000,".

(2) Subsection (b) of such section is amended by inserting "for fiscal years 2003 and 2004 only" after "authorization of appropriations under subsection (a)".

(b) REQUIREMENT FOR EMPLOYMENT AGREEMENTS.—(1) Section 802(i) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902(i)) is amended by adding at the end the following new paragraph:

"(5)(A) In the case of an undergraduate or graduate student that participates in training in programs under paragraph (1), the student shall enter into an agreement described in subsection (b), other than such a student who has entered into such an agreement pursuant to subparagraph (A)(ii) or (B)(ii) of section 802(a)(1).

"(B) In the case of an employee of an agency or department of the Federal Government that participates in training in programs under paragraph (1), the employee shall agree in writing—

"(i) to continue in the service of the agency or department of the Federal Government employing the employee for the period of such training;

"(ii) to continue in the service of such agency or department employing the employee following completion of such training for a period of two years for each year, or part of the year, of such training;

"(iii) to reimburse the United States for the total cost of such training (excluding the employee's pay and allowances) provided to the employee if, before the completion by the employee of the training, the employment of the employee by the agency or department is terminated due to misconduct by the employee or by the employee voluntarily; and

"(iv) to reimburse the United States if, after completing such training, the employment of the employee by the agency or department is terminated either by the agency or department due to misconduct by the employee or by the employee voluntarily, before the completion by the employee of the period of service required in clause (ii), in an amount that bears the same ratio to the total cost of the training (excluding the employee's pay and allowances) provided to the employee as the unserved portion of such period of service bears to the total period of service under clause (ii).

"(C) Subject to subparagraph (D), the obligation to reimburse the United States under an agreement under subparagraph (A) is for all purposes a debt owing the United States.

"(D) The head of an element of the intelligence community may release an employee, in whole or in part, from the obligation to reimburse the United States under an agreement under subparagraph (A) when, in the discretion of the head of

the element, the head of the element determines that equity or the interests of the United States so require.".

(2) The amendment made by paragraph (1) shall apply to training that begins on or after the date that is 90 days after the date of the enactment of this Act.

(c) INCREASE IN THE NUMBER OF PARTICIPATING EDUCATIONAL INSTITUTIONS.—The Secretary of Defense shall take such steps as the Secretary determines will increase the number of qualified educational institutions that receive grants under the National Flagship Language Initiative to establish, operate, or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

(d) CLARIFICATION OF AUTHORITY TO SUPPORT STUDIES ABROAD.—Educational institutions that receive grants under the National Flagship Language Initiative may support students who pursue total immersion foreign language studies overseas of foreign languages that are critical to the national security of the United States.

SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PROGRAM FOR ENGLISH LANGUAGE STUDIES FOR HERITAGE COMMUNITY CITIZENS OF THE UNITED STATES WITHIN THE NATIONAL SECURITY EDUCATION PROGRAM.

(a) SCHOLARSHIP PROGRAM FOR ENGLISH LANGUAGE STUDIES FOR HERITAGE COMMUNITY CITIZENS OF THE UNITED STATES.—(1) Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) awarding scholarships to students who—

"(i) are United States citizens who—

"(I) are native speakers (commonly referred to as heritage community residents) of a foreign language that is identified as critical to the national security interests of the United States who should be actively recruited for employment by Federal security agencies with a need for linguists; and

"(II) are not proficient at a professional level in the English language with respect to reading, writing, and interpersonal skills required to carry out the national security interests of the United States, as determined by the Secretary,

to enable such students to pursue English language studies at an institution of higher education of the United States to attain proficiency in those skills; and

"(ii) enter into an agreement to work in a national security position or work in the field of education in the area of study for which the scholarship was awarded in a similar manner (as determined by the Secretary) as agreements entered into pursuant to subsection (b)(2)(A).".

(2) The matter following subsection (a)(2) of such section is amended—

(A) in the first sentence, by inserting "or for the scholarship program under paragraph (1)(E)" after "under paragraph (1)(D) for the National Flagship Language Initiative described in subsection (i)"; and

(B) by adding at the end the following: "For the authorization of appropriations for the scholarship program under paragraph (1)(E), see section 812.".

(3) Section 803(d)(4)(E) of such Act (50 U.S.C. 1903(d)(4)(E)) is amended by inserting before the period the following: "and section 802(a)(1)(E) (relating to scholarship programs for advanced English language studies by heritage community residents)".

(b) FUNDING.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

"SEC. 812. FUNDING FOR SCHOLARSHIP PROGRAM FOR CERTAIN HERITAGE COMMUNITY RESIDENTS.

"There is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2005, $4,000,000, to carry out the scholarship programs for English language studies by certain heritage community residents under section 802(a)(1)(E).

SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LANGUAGE AND EDUCATION FOR THE INTELLIGENCE COMMUNITY; REPORTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that there should be within the Office of the National Intelligence Director a senior official responsible to assist the National Intelligence Director in carrying out the Director's responsibilities for

establishing policies and procedure for foreign language education and training of the intelligence community. The duties of such official should include the following:

(1) Overseeing and coordinating requirements for foreign language education and training of the intelligence community.

(2) Establishing policy, standards, and priorities relating to such requirements.

(3) Identifying languages that are critical to the capability of the intelligence community to carry out national security activities of the United States.

(4) Monitoring the allocation of resources for foreign language education and training in order to ensure the requirements of the intelligence community with respect to foreign language proficiency are met.

(b) REPORTS.—Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress the following reports:

(1) A report that identifies—

(A) skills and processes involved in learning a foreign language; and

(B) characteristics and teaching techniques that are most effective in teaching foreign languages.

(2)(A) A report that identifies foreign language heritage communities, particularly such communities that include speakers of languages that are critical to the national security of the United States.

(B) For purposes of subparagraph (A), the term "foreign language heritage community" means a community of residents or citizens of the United States—

(i) who are native speakers of, or who have fluency in, a foreign language; and

(ii) who should be actively recruited for employment by Federal security agencies with a need for linguists.

(3) A report on—

(A) the estimated cost of establishing a program under which the heads of elements of the intelligence community agree to repay employees of the intelligence community for any student loan taken out by that employee for the study of foreign languages critical for the national security of the United States; and

(B) the effectiveness of such a program in recruiting and retaining highly qualified personnel in the intelligence community.

SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRITICAL TO THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title X of the National Security Act of 1947 (50 U.S.C.) is amended—

(1) by inserting before section 1001 (50 U.S.C. 441g) the following:

"Subtitle A—Science and Technology";

and

(2) by adding at the end the following new subtitles:

"Subtitle B—Foreign Languages Program

"PROGRAM ON ADVANCEMENT OF FOREIGN LANGUAGES CRITICAL TO THE INTELLIGENCE COMMUNITY

"SEC. 1011. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the National Intelligence Director may jointly establish a program to advance foreign languages skills in languages that are critical to the capability of the intelligence community to carry out national security activities of the United States (hereinafter in this subtitle referred to as the 'Foreign Languages Program').

"(b) IDENTIFICATION OF REQUISITE ACTIONS.—In order to carry out the Foreign Languages Program, the Secretary of Defense and the National Intelligence Director shall jointly determine actions required to improve the education of personnel in the intelligence community in foreign languages that are critical to the capability of the intelligence community to carry out national security activities of the United States to meet the long-term intelligence needs of the United States.

"EDUCATION PARTNERSHIPS

"SEC. 1012. (a) IN GENERAL.—In carrying out the Foreign Languages Program, the head of a department or agency containing an element of an intelligence community entity may enter into one or more education partnership agreements with edu-

cational institutions in the United States in order to encourage and enhance the study of foreign languages that are critical to the capability of the intelligence community to carry out national security activities of the United States in educational institutions.

"(b) ASSISTANCE PROVIDED UNDER EDUCATIONAL PARTNERSHIP AGREEMENTS.—Under an educational partnership agreement entered into with an educational institution pursuant to this section, the head of an element of an intelligence community entity may provide the following assistance to the educational institution:

"(1) The loan of equipment and instructional materials of the element of the intelligence community entity to the educational institution for any purpose and duration that the head determines to be appropriate.

"(2) Notwithstanding any other provision of law relating to transfers of surplus property, the transfer to the educational institution of any computer equipment, or other equipment, that is—

"(A) commonly used by educational institutions;

"(B) surplus to the needs of the entity; and

"(C) determined by the head of the element to be appropriate for support of such agreement.

"(3) The provision of dedicated personnel to the educational institution—

"(A) to teach courses in foreign languages that are critical to the capability of the intelligence community to carry out national security activities of the United States; or

"(B) to assist in the development of such courses and materials for the institution.

"(4) The involvement of faculty and students of the educational institution in research projects of the element of the intelligence community entity.

"(5) Cooperation with the educational institution in developing a program under which students receive academic credit at the educational institution for work on research projects of the element of the intelligence community entity.

"(6) The provision of academic and career advice and assistance to students of the educational institution.

"(7) The provision of cash awards and other items that the head of the element of the intelligence community entity determines to be appropriate.

"VOLUNTARY SERVICES

"SEC. 1013. (a) AUTHORITY TO ACCEPT SERVICES.—Notwithstanding section 1342 of title 31, United States Code, and subject to subsection (b), the Foreign Languages Program under section 1011 shall include authority for the head of an element of an intelligence community entity to accept from any individual who is dedicated personnel (as defined in section 1016(3)) voluntary services in support of the activities authorized by this subtitle.

"(b) REQUIREMENTS AND LIMITATIONS.—(1) In accepting voluntary services from an individual under subsection (a), the head of the element shall—

"(A) supervise the individual to the same extent as the head of the element would supervise a compensated employee of that element providing similar services; and

"(B) ensure that the individual is licensed, privileged, has appropriate educational or experiential credentials, or is otherwise qualified under applicable law or regulations to provide such services.

"(2) In accepting voluntary services from an individual under subsection (a), the head of an element of the intelligence community entity may not—

"(A) place the individual in a policymaking position, or other position performing inherently government functions; or

"(B) compensate the individual for the provision of such services.

"(c) AUTHORITY TO RECRUIT AND TRAIN INDIVIDUALS PROVIDING SERVICES.—The head of an element of an intelligence community entity may recruit and train individuals to provide voluntary services accepted under subsection (a).

"(d) STATUS OF INDIVIDUALS PROVIDING SERVICES.—(1) Subject to paragraph (2), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), an individual shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

"(A) Section 552a of title 5, United States Code (relating to maintenance of records on individuals).

"(B) Chapter 11 of title 18, United States Code (relating to conflicts of interest).

"(2)(A) With respect to voluntary services accepted under paragraph (1) provided by an individual that are within the scope of the services so accepted, the individual is deemed to be a volunteer of a governmental entity or nonprofit institution for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

"(B) In the case of any claim against such an individual with respect to the provision of such services, section 4(d) of such Act (42 U.S.C. 14503(d)) shall not apply.

"(3) Acceptance of voluntary services under this section shall have no bearing on the issuance or renewal of a security clearance.

"(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—(1) The head of an element of the intelligence community entity may reimburse an individual for incidental expenses incurred by the individual in providing voluntary services accepted under subsection (a). The head of an element of the intelligence community entity shall determine which expenses are eligible for reimbursement under this subsection.

"(2) Reimbursement under paragraph (1) may be made from appropriated or nonappropriated funds.

"(f) AUTHORITY TO INSTALL EQUIPMENT.—(1) The head of an element of the intelligence community may install telephone lines and any necessary telecommunication equipment in the private residences of individuals who provide voluntary services accepted under subsection (a).

"(2) The head of an element of the intelligence community may pay the charges incurred for the use of equipment installed under paragraph (1) for authorized purposes.

"(3) Notwithstanding section 1348 of title 31, United States Code, the head of an element of the intelligence community entity may use appropriated funds or nonappropriated funds of the element in carrying out this subsection.

"REGULATIONS

"SEC. 1014. (a) IN GENERAL.—The Secretary of Defense and the National Intelligence Director jointly shall promulgate regulations necessary to carry out the Foreign Languages Program authorized under this subtitle.

"(b) ELEMENTS OF THE INTELLIGENCE COMMUNITY.—Each head of an element of an intelligence community entity shall prescribe regulations to carry out sections 1012 and 1013 with respect to that element including the following:

"(1) Procedures to be utilized for the acceptance of voluntary services under section 1013.

"(2) Procedures and requirements relating to the installation of equipment under section 1013(g).

"DEFINITIONS

"SEC. 1015. In this subtitle:

"(1) The term 'intelligence community entity' means an agency, office, bureau, or element referred to in subparagraphs (B) through (K) of section 3(4).

"(2) The term 'educational institution' means—

"(A) a local educational agency (as that term is defined in section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26))),

"(B) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002) other than institutions referred to in subsection (a)(1)(C) of such section), or

"(C) any other nonprofit institution that provides instruction of foreign languages in languages that are critical to the capability of the intelligence community to carry out national security activities of the United States.

"(3) The term 'dedicated personnel' means employees of the intelligence community and private citizens (including former civilian employees of the Federal Government who have been voluntarily separated, and members of the United States Armed Forces who have been honorably discharged or generally discharged under honorable circumstances, and rehired on a voluntary basis specifically to perform the activities authorized under this subtitle).

"Subtitle C—Additional Education Provisions

"ASSIGNMENT OF INTELLIGENCE COMMUNITY PERSONNEL AS LANGUAGE STUDENTS

"SEC. 1021. (a) IN GENERAL.—(1) The National Intelligence Director, acting through the heads of the elements of the intelligence community, may provide for the assignment of military and civilian personnel described in paragraph (2) as students at accredited professional, technical, or other institutions of higher education for training at the graduate or undergraduate level in foreign languages required for the conduct of duties and responsibilities of such positions.

"(2) Personnel referred to in paragraph (1) are personnel of the elements of the intelligence community who serve in analysts positions in such elements and who

require foreign language expertise required for the conduct of duties and responsibilities of such positions.

"(b) AUTHORITY FOR REIMBURSEMENT OF COSTS OF TUITION AND TRAINING.—(1) The Director may reimburse an employee assigned under subsection (a) for the total cost of the training described in subsection (a), including costs of educational and supplementary reading materials.

"(2) The authority under paragraph (1) shall apply to employees who are assigned on a full-time or part-time basis.

"(3) Reimbursement under paragraph (1) may be made from appropriated or non-appropriated funds.

"(c) RELATIONSHIP TO COMPENSATION AS AN ANALYST.—Reimbursement under this section to an employee who is an analyst is in addition to any benefits, allowances, travels, or other compensation the employee is entitled to by reason of serving in such an analyst position.".

(b) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by striking the item relating to section 1001 and inserting the following new items:

"Subtitle A—Science and Technology

"Sec. 1001. Scholarships and work-study for pursuit of graduate degrees in science and technology.

"Subtitle B—Foreign Languages Program

"Sec. 1011. Program on advancement of foreign languages critical to the intelligence community.
"Sec. 1012. Education partnerships.
"Sec. 1013. Voluntary services.
"Sec. 1014. Regulations.
"Sec. 1015. Definitions.

"Subtitle C—Additional Education Provisions

"Sec. 1021. Assignment of intelligence community personnel as language students.".

SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) PILOT PROJECT.—The National Intelligence Director shall conduct a pilot project to establish a Civilian Linguist Reserve Corps comprised of United States citizens with advanced levels of proficiency in foreign languages who would be available upon a call of the President to perform such service or duties with respect to such foreign languages in the Federal Government as the President may specify.

(b) CONDUCT OF PROJECT.—Taking into account the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2393), in conducting the pilot project under subsection (a) the National Intelligence Director shall—

(1) identify several foreign languages that are critical for the national security of the United States;

(2) identify United States citizens with advanced levels of proficiency in those foreign languages who would be available to perform the services and duties referred to in subsection (a); and

(3) implement a call for the performance of such services and duties.

(c) DURATION OF PROJECT.—The pilot project under subsection (a) shall be conducted for a three-year period.

(d) AUTHORITY TO ENTER INTO CONTRACTS.—The National Intelligence Director may enter into contracts with appropriate agencies or entities to carry out the pilot project under subsection (a).

(e) REPORTS.—(1) The National Intelligence Director shall submit to Congress an initial and a final report on the pilot project conducted under subsection (a).

(2) Each report required under paragraph (1) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

(3) The final report shall be submitted not later than 6 months after the completion of the project.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Intelligence Director such sums as are necessary for each of fiscal years 2005, 2006, and 2007 in order to carry out the pilot project under subsection (a).

SEC. 1057. CODIFICATION OF ESTABLISHMENT OF THE NATIONAL VIRTUAL TRANSLATION CENTER.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 1021(a), is further amended by adding at the end the following new section:

"NATIONAL VIRTUAL TRANSLATION CENTER

"SEC. 120. (a) IN GENERAL.—There is an element of the intelligence community known as the National Virtual Translation Center under the direction of the National Intelligence Director.

"(b) FUNCTION.—The National Virtual Translation Center shall provide for timely and accurate translations of foreign intelligence for all other elements of the intelligence community.

"(c) FACILITATING ACCESS TO TRANSLATIONS.—In order to minimize the need for a central facility for the National Virtual Translation Center, the Center shall—

"(1) use state-of-the-art communications technology;

"(2) integrate existing translation capabilities in the intelligence community; and

"(3) use remote-connection capacities.

"(d) USE OF SECURE FACILITIES.—Personnel of the National Virtual Translation Center may carry out duties of the Center at any location that—

"(1) has been certified as a secure facility by an agency or department of the United States; and

"(2) the National Intelligence Director determines to be appropriate for such purpose.".

(b) CLERICAL AMENDMENT.—The table of sections for that Act, as amended by section 1021(b), is further amended by inserting after the item relating to section 119 the following new item:

"Sec. 120. National Virtual Translation Center.".

SEC. 1058. REPORT ON RECRUITMENT AND RETENTION OF QUALIFIED INSTRUCTORS OF THE DEFENSE LANGUAGE INSTITUTE.

(a) STUDY.—The Secretary of Defense shall conduct a study on methods to improve the recruitment and retention of qualified foreign language instructors at the Foreign Language Center of the Defense Language Institute. In conducting the study, the Secretary shall consider, in the case of a foreign language instructor who is an alien, to expeditiously adjust the status of the alien from a temporary status to that of an alien lawfully admitted for permanent residence.

(b) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees a report on the study conducted under subsection (a), and shall include in that report recommendations for such changes in legislation and regulation as the Secretary determines to be appropriate.

(2) DEFINITION.—In this subsection, the term "appropriate congressional committees" means the following:

(A) The Select Committee on Intelligence and the Committee on Armed Services of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

Subtitle F—Additional Improvements of Intelligence Activities

SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION INCENTIVE PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(b) TERMINATION OF FUNDS REMITTANCE REQUIREMENT.—(1) Section 2 of such Act (50 U.S.C. 403–4 note) is further amended by striking subsection (i).

(2) Section 4(a)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note) is amended by striking ", or section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (Public Law 103–36; 107 Stat. 104)".

SEC. 1062. NATIONAL SECURITY AGENCY EMERGING TECHNOLOGIES PANEL.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new section:

"SEC. 19. (a) There is established the National Security Agency Emerging Technologies Panel. The panel is a standing panel of the National Security Agency. The panel shall be appointed by, and shall report directly to, the Director.

"(b) The National Security Agency Emerging Technologies Panel shall study and assess, and periodically advise the Director on, the research, development, and application of existing and emerging science and technology advances, advances on encryption, and other topics.

"(c) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the National Security Agency Emerging Technologies Panel.".

Subtitle G—Conforming and Other Amendments

SEC. 1071. CONFORMING AMENDMENTS RELATING TO ROLES OF NATIONAL INTELLIGENCE DIRECTOR AND DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

(a) NATIONAL SECURITY ACT OF 1947.—(1) The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "National Intelligence Director":

(A) Section 3(5)(B) (50 U.S.C. 401a(5)(B)).
(B) Section 101(h)(2)(A) (50 U.S.C. 402(h)(2)(A)).
(C) Section 101(h)(5) (50 U.S.C. 402(h)(5)).
(D) Section 101(i)(2)(A) (50 U.S.C. 402(i)(2)(A)).
(E) Section 101(j) (50 U.S.C. 402(j)).
(F) Section 105(a) (50 U.S.C. 403–5(a)).
(G) Section 105(b)(6)(A) (50 U.S.C. 403–5(b)(6)(A)).
(H) Section 105B(a)(1) (50 U.S.C. 403–5b(a)(1)).
(I) Section 105B(b) (50 U.S.C. 403–5b(b)), the first place it appears.
(J) Section 110(b) (50 U.S.C. 404e(b)).
(K) Section 110(c) (50 U.S.C. 404e(c)).
(L) Section 112(a)(1) (50 U.S.C. 404g(a)(1)).
(M) Section 112(d)(1) (50 U.S.C. 404g(d)(1)).
(N) Section 113(b)(2)(A) (50 U.S.C. 404h(b)(2)(A)).
(O) Section 114(a)(1) (50 U.S.C. 404i(a)(1)).
(P) Section 114(b)(1) (50 U.S.C. 404i(b)(1)).
(R) Section 115(a)(1) (50 U.S.C. 404j(a)(1)).
(S) Section 115(b) (50 U.S.C. 404j(b)).
(T) Section 115(c)(1)(B) (50 U.S.C. 404j(c)(1)(B)).
(U) Section 116(a) (50 U.S.C. 404k(a)).
(V) Section 117(a)(1) (50 U.S.C. 404l(a)(1)).
(W) Section 303(a) (50 U.S.C. 405(a)), both places it appears.
(X) Section 501(d) (50 U.S.C. 413(d)).
(Y) Section 502(a) (50 U.S.C. 413a(a)).
(Z) Section 502(c) (50 U.S.C. 413a(c)).
(AA) Section 503(b) (50 U.S.C. 413b(b)).
(BB) Section 504(a)(3)(C) (50 U.S.C. 414(a)(3)(C)).
(CC) Section 504(d)(2) (50 U.S.C. 414(d)(2)).
(DD) Section 506A(a)(1) (50 U.S.C. 415a–1(a)(1)).
(EE) Section 603(a) (50 U.S.C. 423(a)).
(FF) Section 702(a)(1) (50 U.S.C. 432(a)(1)).
(GG) Section 702(a)(6)(B)(viii) (50 U.S.C. 432(a)(6)(B)(viii)).
(HH) Section 702(b)(1) (50 U.S.C. 432(b)(1)), both places it appears.
(II) Section 703(a)(1) (50 U.S.C. 432a(a)(1)).
(JJ) Section 703(a)(6)(B)(viii) (50 U.S.C. 432a(a)(6)(B)(viii)).
(KK) Section 703(b)(1) (50 U.S.C. 432a(b)(1)), both places it appears.
(LL) Section 704(a)(1) (50 U.S.C. 432b(a)(1)).
(MM) Section 704(f)(2)(H) (50 U.S.C. 432b(f)(2)(H)).
(NN) Section 704(g)(1)) (50 U.S.C. 432b(g)(1)), both places it appears.
(OO) Section 1001(a) (50 U.S.C. 441g(a)).
(PP) Section 1102(a)(1) (50 U.S.C. 442a(a)(1)).
(QQ) Section 1102(b)(1) (50 U.S.C. 442a(b)(1)).
(RR) Section 1102(c)(1) (50 U.S.C. 442a(c)(1)).
(SS) Section 1102(d) (50 U.S.C. 442a(d)).

(2) That Act is further amended by striking "of Central Intelligence" each place it appears in the following provisions:

(A) Section 105(a)(2) (50 U.S.C. 403–5(a)(2)).
(B) Section 105B(a)(2) (50 U.S.C. 403–5b(a)(2)).
(C) Section 105B(b) (50 U.S.C. 403–5b(b)), the second place it appears.

(3) That Act is further amended by striking "Director" each place it appears in the following provisions and inserting "National Intelligence Director":

(A) Section 114(c) (50 U.S.C. 404i(c)).
(B) Section 116(b) (50 U.S.C. 404k(b)).

(C) Section 1001(b) (50 U.S.C. 441g(b)).
(C) Section 1001(c) (50 U.S.C. 441g(c)), the first place it appears.
(D) Section 1001(d)(1)(B) (50 U.S.C. 441g(d)(1)(B)).
(E) Section 1001(e) (50 U.S.C. 441g(e)), the first place it appears.

(4) Section 114A of that Act (50 U.S.C. 404i–1) is amended by striking "Director of Central Intelligence" and inserting "National Intelligence Director, the Director of the Central Intelligence Agency"

(5) Section 504(a)(2) of that Act (50 U.S.C. 414(a)(2)) is amended by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency".

(6) Section 701 of that Act (50 U.S.C. 431) is amended—

(A) in subsection (a), by striking "Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence" and inserting "The Director of the Central Intelligence Agency, with the coordination of the National Intelligence Director, may exempt operational files of the Central Intelligence Agency"; and

(B) in subsection (g)(1), by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency and the National Intelligence Director".

(7) The heading for section 114 of that Act (50 U.S.C. 404i) is amended to read as follows:

"ADDITIONAL ANNUAL REPORTS FROM THE NATIONAL INTELLIGENCE DIRECTOR".

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—(1) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "National Intelligence Director":

(A) Section 6 (50 U.S.C. 403g).
(B) Section 17(f) (50 U.S.C. 403q(f)), both places it appears.

(2) That Act is further amended by striking "of Central Intelligence" in each of the following provisions:

(A) Section 2 (50 U.S.C. 403b).
(A) Section 16(c)(1)(B) (50 U.S.C. 403p(c)(1)(B)).
(B) Section 17(d)(1) (50 U.S.C. 403q(d)(1)).
(C) Section 20(c) (50 U.S.C. 403t(c)).

(3) That Act is further amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "Director of the Central Intelligence Agency":

(A) Section 14(b) (50 U.S.C. 403n(b)).
(B) Section 16(b)(2) (50 U.S.C. 403p(b)(2)).
(C) Section 16(b)(3) (50 U.S.C. 403p(b)(3)), both places it appears.
(D) Section 21(g)(1) (50 U.S.C. 403u(g)(1)).
(E) Section 21(g)(2) (50 U.S.C. 403u(g)(2)).

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 101 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2001) is amended by striking paragraph (2) and inserting the following new paragraph (2):

"(2) DIRECTOR.—The term 'Director' means the Director of the Central Intelligence Agency.".

(d) CIA VOLUNTARY SEPARATION PAY ACT.—Subsection (a)(1) of section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 2001 note) is amended to read as follows:

"(1) the term 'Director' means the Director of the Central Intelligence Agency;".

(e) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking "Director of Central Intelligence" each place it appears and inserting "National Intelligence Director".

(f) CLASSIFIED INFORMATION PROCEDURES ACT.—Section 9(a) of the Classified Information Procedures Act (5 U.S.C. App.) is amended by striking "Director of Central Intelligence" and inserting "National Intelligence Director".

(g) INTELLIGENCE AUTHORIZATION ACTS.—

(1) PUBLIC LAW 103–359.—Section 811(c)(6)(C) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359) is amended by striking "Director of Central Intelligence" and inserting "National Intelligence Director".

(2) PUBLIC LAW 107–306.—(A) The Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306) is amended by striking "Director of Central Intelligence, acting as the head of the intelligence community," each place it appears in the following provisions and inserting "National Intelligence Director":

(i) Section 313(a) (50 U.S.C. 404n(a)).
(ii) Section 343(a)(1) (50 U.S.C. 404n–2(a)(1))

(B) That Act is further amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "National Intelligence Director":
(i) Section 902(a)(2) (50 U.S.C. 402b(a)(2)).
(ii) Section 904(e)(4) (50 U.S.C. 402c(e)(4)).
(iii) Section 904(e)(5) (50 U.S.C. 402c(e)(5)).
(iv) Section 904(h) (50 U.S.C. 402c(h)), each place it appears.
(v) Section 904(m) (50 U.S.C. 402c(m)).

(C) Section 341 of that Act (50 U.S.C. 404n–1) is amended by striking "Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the Central Intelligence Agency" and inserting "National Intelligence Director shall establish within the Central Intelligence Agency".

(D) Section 352(b) of that Act (50 U.S.C. 404–3 note) is amended by striking "Director" and inserting "National Intelligence Director".

(3) PUBLIC LAW 108–177.—(A) The Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177) is amended by striking "Director of Central Intelligence" each place it appears in the following provisions and inserting "National Intelligence Director":
(i) Section 317(a) (50 U.S.C. 403–3 note).
(ii) Section 317(h)(1).
(iii) Section 318(a) (50 U.S.C. 441g note).
(iv) Section 319(b) (50 U.S.C. 403 note).
(v) Section 341(b) (28 U.S.C. 519 note).
(vi) Section 357(a) (50 U.S.C. 403 note).
(vii) Section 504(a) (117 Stat. 2634), both places it appears.

(B) Section 319(f)(2) of that Act (50 U.S.C. 403 note) is amended by striking "Director" the first place it appears and inserting "National Intelligence Director".

(C) Section 404 of that Act (18 U.S.C. 4124 note) is amended by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency".

SEC. 1072. OTHER CONFORMING AMENDMENTS

(a) NATIONAL SECURITY ACT OF 1947.—(1) Section 101(j) of the National Security Act of 1947 (50 U.S.C. 402(j)) is amended by striking "Deputy Director of Central Intelligence" and inserting "Deputy National Intelligence Director".

(2) Section 112(d)(1) of that Act (50 U.S.C. 404g(d)(1)) is amended by striking "section 103(c)(6) of this Act" and inserting "section 102A(g) of this Act".

(3) Section 116(b) of that Act (50 U.S.C. 404k(b)) is amended by striking "to the Deputy Director of Central Intelligence, or with respect to employees of the Central Intelligence Agency, the Director may delegate such authority to the Deputy Director for Operations" and inserting "to the Deputy National Intelligence Director, or with respect to employees of the Central Intelligence Agency, to the Director of the Central Intelligence Agency".

(4) Section 506A(b)(1) of that Act (50 U.S.C. 415a–1(b)(1)) is amended by striking "Office of the Deputy Director of Central Intelligence" and inserting "Office of the National Intelligence Director".

(5) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is amended by striking "Office of the Director of Central Intelligence" and inserting "Office of the National Intelligence Director".

(6) Section 1001(b) of that Act (50 U.S.C. 441g(b)) is amended by striking "Assistant Director of Central Intelligence for Administration" and inserting "Office of the National Intelligence Director".

(b) CENTRAL INTELLIGENCE ACT OF 1949.—Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking "section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))" and inserting "section 102A(g) of the National Security Act of 1947".

(c) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking "paragraph (6) of section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) that the Director of Central Intelligence" and inserting "section 102A(g) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(1)) that the National Intelligence Director".

(d) INTELLIGENCE AUTHORIZATION ACTS.—

(1) PUBLIC LAW 107–306.—(A) Section 343(c) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 404n–2(c)) is amended by striking "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C.

403–3((c)(6))" and inserting "section 102A(g) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(1))".

(B) Section 904 of that Act (50 U.S.C. 402c) is amended—

(i) in subsection (c), by striking "Office of the Director of Central Intelligence" and inserting "Office of the National Intelligence Director"; and

(ii) in subsection (l), by striking "Office of the Director of Central Intelligence" and inserting "Office of the National Intelligence Director".

(2) PUBLIC LAW 108–177.—Section 317 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 403–3 note) is amended—

(A) in subsection (g), by striking "Assistant Director of Central Intelligence for Analysis and Production" and inserting "Deputy National Intelligence Director"; and

(B) in subsection (h)(2)(C), by striking "Assistant Director" and inserting "Deputy National Intelligence Director".

SEC. 1073. ELEMENTS OF INTELLIGENCE COMMUNITY UNDER NATIONAL SECURITY ACT OF 1947.

Paragraph (4) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

"(4) The term 'intelligence community' includes the following:

"(A) The Office of the National Intelligence Director.

"(B) The Central Intelligence Agency.

"(C) The National Security Agency.

"(D) The Defense Intelligence Agency.

"(E) The National Geospatial-Intelligence Agency.

"(F) The National Reconnaissance Office.

"(G) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.

"(H) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, and the Department of Energy.

"(I) The Bureau of Intelligence and Research of the Department of State.

"(J) The Office of Intelligence and Analysis of the Department of the Treasury.

"(K) The elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

"(L) Such other elements of any other department or agency as may be designated by the President, or designated jointly by the National Intelligence Director and the head of the department or agency concerned, as an element of the intelligence community.".

SEC. 1074. REDESIGNATION OF NATIONAL FOREIGN INTELLIGENCE PROGRAM AS NATIONAL INTELLIGENCE PROGRAM.

(a) REDESIGNATION.—Paragraph (6) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended by striking "Foreign".

(b) CONFORMING AMENDMENTS.—(1) Section 506(a) of the National Security Act of 1947 (50 U.S.C. 415a(a)) is amended by striking "National Foreign Intelligence Program" and inserting "National Intelligence Program".

(2) Section 17(f) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(f)) is amended by striking "National Foreign Intelligence Program" and inserting "National Intelligence Program".

(c) HEADING AMENDMENT.—The heading of section 506 of that Act is amended by striking "FOREIGN".

SEC. 1075. REPEAL OF SUPERSEDED AUTHORITIES.

(a) APPOINTMENT OF CERTAIN INTELLIGENCE OFFICIALS.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is repealed.

(b) COLLECTION TASKING AUTHORITY.—Section 111 of the National Security Act of 1947 (50 U.S.C. 404f) is repealed.

SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECURITY ACT OF 1947.

The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 102 through 104 and inserting the following new items:

"Sec. 102. National Intelligence Director.
"Sec. 102A. Responsibilities and authorities of National Intelligence Director.
"Sec. 103. Office of the National Intelligence Director.
"Sec. 104. Central Intelligence Agency.
"Sec. 104A. Director of the Central Intelligence Agency."; and

(2) by striking the item relating to section 114 and inserting the following new item:

"Sec. 114. Additional annual reports from the National Intelligence Director.";

and

(3) by striking the item relating to section 506 and inserting the following new item:

"Sec. 506. Specificity of National Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence".

SEC. 1077. CONFORMING AMENDMENTS RELATING TO PROHIBITING DUAL SERVICE OF THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.

Section 1 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) is amended—

(1) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively; and

(2) by striking paragraph (2), as so redesignated, and inserting the following new paragraph (2):

"(2) 'Director' means the Director of the Central Intelligence Agency; and".

SEC. 1078. ACCESS TO INSPECTOR GENERAL PROTECTIONS.

Section 17(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(a)(1)) is amended by inserting before the semicolon at the end the following: "and to programs and operations of the Office of the National Intelligence Director".

SEC. 1079. GENERAL REFERENCES.

(a) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF INTELLIGENCE COMMUNITY.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the National Intelligence Director.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AS HEAD OF CIA.—Any reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the Director of the Central Intelligence Agency.

(c) COMMUNITY MANAGEMENT STAFF.—Any reference to the Community Management Staff in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to the staff of the Office of the National Intelligence Director.

SEC. 1080. APPLICATION OF OTHER LAWS.

(a) POLITICAL SERVICE OF PERSONNEL.—Section 7323(b)(2)(B)(i) of title 5, United States Code, is amended—

(1) in subclause (XII), by striking "or" at the end; and

(2) by inserting after subclause (XIII) the following new subclause:

"(XIV) the Office of the National Intelligence Director; or".

(b) DELETION OF INFORMATION ABOUT FOREIGN GIFTS.—Section 7342(f)(4) of title 5, United States Code, is amended—

(1) by inserting "(A)" after "(4)";

(2) in subparagraph (A), as so designated, by striking "the Director of Central Intelligence" and inserting "the Director of the Central Intelligence Agency"; and

(3) by adding at the end the following new subparagraph:

"(B) In transmitting such listings for the Office of the National Intelligence Director, the National Intelligence Director may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.".

(c) EXEMPTION FROM FINANCIAL DISCLOSURES.—Section 105(a)(1) of the Ethics in Government Act (5 U.S.C. App.) is amended by inserting "the Office of the National Intelligence Director," before "the Central Intelligence Agency".

Subtitle H—Transfer, Termination, Transition and Other Provisions

SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT STAFF.

(a) TRANSFER.—There shall be transferred to the Office of the National Intelligence Director the staff of the Community Management Staff as of the date of the

enactment of this Act, including all functions and activities discharged by the Community Management Staff as of that date.

(b) ADMINISTRATION.—The National Intelligence Director shall administer the Community Management Staff after the date of the enactment of this Act as a component of the Office of the National Intelligence Director under section 103(b) of the National Security Act of 1947, as amended by section 1011(a).

SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

(a) TRANSFER.—There shall be transferred to the National Counterterrorism Center the Terrorist Threat Integration Center (TTIC), including all functions and activities discharged by the Terrorist Threat Integration Center as of the date of the enactment of this Act.

(b) ADMINISTRATION.—The Director of the National Counterterrorism Center shall administer the Terrorist Threat Integration Center after the date of the enactment of this Act as a component of the Directorate of Intelligence of the National Counterterrorism Center under section 119(i) of the National Security Act of 1947, as added by section 1021(a).

SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

(a) TERMINATION.—The positions within the Central Intelligence Agency referred to in subsection (b) are hereby abolished.

(b) COVERED POSITIONS.—The positions within the Central Intelligence Agency referred to in this subsection are as follows:

(1) The Assistant Director of Central Intelligence for Collection.

(2) The Assistant Director of Central Intelligence for Analysis and Production.

(3) The Assistant Director of Central Intelligence for Administration.

SEC. 1094. IMPLEMENTATION PLAN.

(a) SUBMISSION OF PLAN.—The President shall transmit to Congress a plan for the implementation of this title and the amendments made by this title. The plan shall address, at a minimum, the following:

(1) The transfer of personnel, assets, and obligations to the National Intelligence Director pursuant to this title.

(2) Any consolidation, reorganization, or streamlining of activities transferred to the National Intelligence Director pursuant to this title.

(3) The establishment of offices within the Office of the National Intelligence Director to implement the duties and responsibilities of the National Intelligence Director as described in this title.

(4) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations to be transferred to the National Intelligence Director.

(5) Recommendations for additional legislative or administrative action as the Director considers appropriate.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the permanent location for the headquarters for the Office of the National Intelligence Director, should be at a location other than the George Bush Center for Intelligence in Langley, Virginia.

SEC. 1095. TRANSITIONAL AUTHORITIES.

Upon the request of the National Intelligence Director, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to the National Intelligence Director.

SEC. 1096. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise expressly provided in this Act, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) SPECIFIC EFFECTIVE DATES.—(1)(A) Not later than 60 days after the date of the enactment of this Act, the National Intelligence Director shall first appoint individuals to positions within the Office of the National Intelligence Director.

(B) Subparagraph (A) shall not apply with respect to the Deputy National Intelligence Director.

(2) Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress the implementation plan required under section 1904.

(3) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall prescribe regulations, policies, procedures, standards, and guidelines required under section 102A of the National Security Act of 1947, as amended by section 1011(a).

TITLE II—TERRORISM PREVENTION AND PROSECUTION

Subtitle A—Individual Terrorists as Agents of Foreign Powers

SECTION 2001. INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.

Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) engages in international terrorism or activities in preparation therefor; or".

Subtitle B—Stop Terrorist and Military Hoaxes Act of 2004

SEC. 2021. SHORT TITLE.

This subtitle may be cited as the "Stop Terrorist and Military Hoaxes Act of 2004".

SEC. 2022. HOAXES AND RECOVERY COSTS.

(a) PROHIBITION ON HOAXES.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:

"§ 1038. False information and hoaxes

"(a) CRIMINAL VIOLATION.—

"(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 shall—

"(A) be fined under this title or imprisoned not more than 5 years, or both;

"(B) if serious bodily injury results, be fined under this title or imprisoned not more than 25 years, or both; and

"(C) if death results, be fined under this title or imprisoned for any number of years up to life, or both.

"(2) ARMED FORCES.—Whoever, without lawful authority, makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged, shall—

"(A) be fined under this title or imprisoned not more than 5 years, or both;

"(B) if serious bodily injury results, be fined under this title or imprisoned not more than 25 years, or both; and

"(C) if death results, be fined under this title or imprisoned for any number of years up to life, or both.

"(b) CIVIL ACTION.—Whoever knowingly engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

"(c) REIMBURSEMENT.—

"(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any state or local government, or private not-for-profit organization

that provides fire or rescue service incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

"(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

"(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

"(d) ACTIVITIES OF LAW ENFORCEMENT.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections as the beginning of chapter 47 of title 18, United States Code, is amended by adding after the item for section 1037 the following:

"1038. False information and hoaxes.".

SEC. 2023. OBSTRUCTION OF JUSTICE AND FALSE STATEMENTS IN TERRORISM CASES.

(a) ENHANCED PENALTY.—Section 1001(a) and the third undesignated paragraph of section 1505 of title 18, United States Code, are amended by striking "be fined under this title or imprisoned not more than 5 years, or both" and inserting "be fined under this title, imprisoned not more than 5 years or, if the matter relates to international or domestic terrorism (as defined in section 2331), imprisoned not more than 10 years, or both".

(b) SENTENCING GUIDELINES.—Not later than 30 days of the enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves a matter relating to international or domestic terrorism, as defined in section 2331 of such title.

SEC. 2024. CLARIFICATION OF DEFINITION.

Section 1958 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "facility in" and inserting "facility of"; and

(2) in subsection (b)(2), by inserting "or foreign" after "interstate".

Subtitle C—Material Support to Terrorism Prohibition Enhancement Act of 2004

SEC. 2041. SHORT TITLE.

This subtitle may be cited as the "Material Support to Terrorism Prohibition Enhancement Act of 2004".

SEC. 2042. RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

Chapter 113B of title 18, United States Code, is amended by adding after section 2339C the following new section:

"§ 2339D. Receiving military-type training from a foreign terrorist organization

"(a) OFFENSE.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be fined under this title or imprisoned for ten years, or both. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

"(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section. There is jurisdiction over an offense under subsection (a) if—

"(1) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act);

"(2) an offender is a stateless person whose habitual residence is in the United States;

"(3) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

"(4) the offense occurs in whole or in part within the United States;

"(5) the offense occurs in or affects interstate or foreign commerce;

"(6) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'military-type training' includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2));

"(2) the term 'serious bodily injury' has the meaning given that term in section 1365(h)(3);

"(3) the term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

"(4) the term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219(a)(1) of the Immigration and Nationality Act.".

SEC. 2043. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) ADDITIONS TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (3);

(3) by inserting after paragraph (1) as so designated by this subsection the following:

"(2) (A) Whoever in a circumstance described in subparagraph (B) provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism (as defined in section 2331), or in preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

"(B) The circumstances referred to in subparagraph (A) are any of the following:

"(i) The offense occurs in or affects interstate or foreign commerce.

"(ii) The act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States.

"(iii) The act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government.

"(iv) An offender, acting within the United States or outside the territorial jurisdiction of the United States, is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act, an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act , or a stateless person whose habitual residence is in the United States, and the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government.

"(v) An offender, acting within the United States, is an alien, and the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government.

"(vi) An offender, acting outside the territorial jurisdiction of the United States, is an alien and the act of terrorism is an act of international ter-

rorism that appears to be intended to influence the policy of, or affect the conduct of, the Government of the United States.

"(vii) An offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph."; and

(4) by inserting "act or" after "underlying".

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking "In this" and inserting "(1) In this";

(2) by inserting "any property, tangible or intangible, or service, including" after "means";

(3) by inserting "(one or more individuals who may be or include oneself)" after "personnel";

(4) by inserting "and" before "transportation";

(5) by striking "and other physical assets"; and

(6) by adding at the end the following:

"(2) As used in this subsection, the term 'training' means instruction or teaching designed to impart a specific skill, as opposed to general knowledge, and the term 'expert advice or assistance' means advice or assistance derived from scientific, technical or other specialized knowledge.".

(c) ADDITION TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking ", within the United States or subject to the jurisdiction of the United States," and inserting "in a circumstance described in paragraph (2)" ; and

(2) by adding at the end the following: "To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act, or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.".

(d) FEDERAL AUTHORITY.—Section 2339B(d) of title 18 is amended—

(1) by inserting "(1)" before "There"; and

(2) by adding at the end the following:

"(2) The circumstances referred to in paragraph (1) are any of the following:

"(A) An offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act.

"(B) An offender is a stateless person whose habitual residence is in the United States.

"(C) After the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States.

"(D) The offense occurs in whole or in part within the United States.

"(E) The offense occurs in or affects interstate or foreign commerce.

"(F) An offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).".

(e) DEFINITION.—Paragraph (4) of section 2339B(g) of title 18, United States Code, is amended to read as follows:

"(4) the term 'material support or resources" has the same meaning given that term in section 2339A;".

(f) ADDITIONAL PROVISIONS.—Section 2339B of title 18, United States Code, is amended by adding at the end the following:

"(h) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with one or more individuals (who may be or include himself) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction and control.

"(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.".

SEC. 2044. FINANCING OF TERRORISM.

(a) FINANCING TERRORISM.—Section 2339c(c)(2) of title 18, United States Code, is amended—

(1) by striking ", resources, or funds" and inserting "or resources, or any funds or proceeds of such funds";

(2) in subparagraph (A), by striking "were provided" and inserting "are to be provided, or knowing that the support or resources were provided,"; and

(3) in subparagraph (B)—

(A) by striking "or any proceeds of such funds"; and

(B) by striking "were provided or collected" and inserting "are to be provided or collected, or knowing that the funds were provided or collected,".

(b) DEFINITIONS.—Section 2339c(e) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

"(13) the term 'material support or resources" has the same meaning given that term in section 2339B(g)(4) of this title; and".

Subtitle D—Weapons of Mass Destruction Prohibition Improvement Act of 2004

SEC. 2051. SHORT TITLE.

This subtitle may be cited as the "Weapons of Mass Destruction Prohibition Improvement Act of 2004".

SEC. 2052. WEAPONS OF MASS DESTRUCTION.

(a) EXPANSION OF JURISDICTIONAL BASES AND SCOPE.—Section 2332a of title 18, United States Code, is amended—

(1) so that paragraph (2) of subsection (a) reads as follows:

"(2) against any person or property within the United States, and

"(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

"(B) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

"(C) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

"(D) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;";

(2) in paragraph (3) of subsection (a), by striking the comma at the end and inserting "; or";

(3) in subsection (a), by adding the following at the end:

"(4) against any property within the United States that is owned, leased, or used by a foreign government,";

(4) at the end of subsection (c)(1), by striking"and";

(5) in subsection (c)(2), by striking the period at the end and inserting "; and"; and

(6) in subsection (c), by adding at the end the following:

"(3) the term 'property' includes all real and personal property.".

(b) RESTORATION OF THE COVERAGE OF CHEMICAL WEAPONS.—Section 2332a of title 18, United States Code, as amended by subsection (a), is further amended—

(1) in the section heading, by striking "certain";

(2) in subsection (a), by striking "(other than a chemical weapon as that term is defined in section 229F)"; and

(3) in subsection (b), by striking "(other than a chemical weapon (as that term is defined in section 229F))".

(c) EXPANSION OF CATEGORIES OF RESTRICTED PERSONS SUBJECT TO PROHIBITIONS RELATING TO SELECT AGENTS.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G) by—

(A) inserting "(i)" after "(G)";

(B) inserting ", or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph" after "terrorism"; and

(C) striking "or" after the semicolon.

(2) in subparagraph (H) by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).".

(d) CONFORMING AMENDMENT TO REGULATIONS.—

(1) Section 175b(a)(1) of title 18, United States Code, is amended by striking "as a select agent in Appendix A" and all that follows and inserting the following: "as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.".

(2) The amendment made by paragraph (1) shall take effect at the same time that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

SEC. 2053. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking "in the production of any special nuclear material" and inserting "or participate in the development or production of any special nuclear material or atomic weapon".

(b) Title 18, United States Code, is amended—

(1) in the table of sections at the beginning of chapter 39, by inserting after the item relating to section 831 the following:

"832. Participation in nuclear and weapons of mass destruction threats to the United States.";

(2) by inserting after section 831 the following:

"§ 832. Participation in nuclear and weapons of mass destruction threats to the United States

"(a) Whoever, within the United States or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as defined in section 2339A) to a nuclear weapons program or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

"(b) There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) As used in this section—

"(1) 'nuclear weapons program' means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons;

"(2) 'weapons of mass destruction program' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as defined in section 2332a(c));

"(3) 'foreign terrorist power' means a terrorist organization designated under section 219 of the Immigration and Nationality Act, or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 or section 620A of the Foreign Assistance Act of 1961; and

"(4) 'nuclear weapon' means any weapon that contains or uses nuclear material as defined in section 831(f)(1).'"; and

(3) in section 2332b(g)(5)(B)(i), by inserting after "nuclear materials)," the following: "832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)".

Subtitle E—Money Laundering and Terrorist Financing

CHAPTER 1—FUNDING TO COMBAT FINANCIAL CRIMES INCLUDING TERRORIST FINANCING

SEC. 2101. ADDITIONAL AUTHORIZATION FOR FINCEN.

Subsection (d) of section 310 of title 31, United States Code, is amended—

(1) by striking "APPROPRIATIONS.—There are authorized" and inserting "APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized"; and

(2) by adding at the end the following new paragraph:

"(2) AUTHORIZATION FOR FUNDING KEY TECHNOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN SYSTEMS.—There are authorized to be appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

"(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107–56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government's ability to exploit the information in the FinCEN databanks $16,500,000.

"(B) ADVANCED ANALYTICAL TECHNOLOGIES.—To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, $5,000,000.

"(C) DATA NETWORKING MODERNIZATION.—To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, $3,000,000.

"(D) ENHANCED COMPLIANCE CAPABILITY.—To improve the effectiveness of the Office of Compliance in FinCEN, $3,000,000.

"(E) DETECTION AND PREVENTION OF FINANCIAL CRIMES AND TERRORISM.—To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, $8,000,000.".

SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY REAUTHORIZATION.

(a) PROGRAM.—Section 5341(a)(2) of title 31, United States Code, is amended by striking "and 2003," and inserting "2003, and 2005,".

(b) REAUTHORIZATION OF APPROPRIATIONS.—Section 5355 of title 31, United States Code, is amended by adding at the end the following:

"Fiscal year 2004	$15,000,000
Fiscal year 2005	$15,000,000".

CHAPTER 2—ENFORCEMENT TOOLS TO COMBAT FINANCIAL CRIMES INCLUDING TERRORIST FINANCING

Subchapter A—Money Laundering Abatement and Financial Antiterrorism Technical Corrections

SEC. 2111. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004".

SEC. 2112. TECHNICAL CORRECTIONS TO PUBLIC LAW 107–56.

(a) The heading of title III of Public Law 107–56 is amended to read as follows:

"TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM ACT OF 2001".

(b) The table of contents of Public Law 107–56 is amended by striking the item relating to title III and inserting the following new item:

"TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM ACT OF 2001".

(c) Section 302 of Public Law 107–56 is amended—

(1) in subsection (a)(4), by striking the comma after "movement of criminal funds";

(2) in subsection (b)(7), by inserting "or types of accounts" after "classes of international transactions"; and

(3) in subsection (b)(10), by striking "subchapters II and III" and inserting "subchapter II".

(d) Section 303(a) of Public Law 107–56 is amended by striking "Anti-Terrorist Financing Act" and inserting "Financial Antiterrorism Act".

(e) The heading for section 311 of Public Law 107–56 is amended by striking "or international transactions" and inserting "international transactions, or types of accounts".

(f) Section 314 of Public Law 107–56 is amended—

(1) in paragraph (1)—

(A) by inserting a comma after "organizations engaged in"; and

(B) by inserting a comma after "credible evidence of engaging in";

(2) in paragraph (2)(A)—

(A) by striking "and" after "nongovernmental organizations,"; and

(B) by inserting a comma after "unwittingly involved in such finances";

(3) in paragraph (3)(A)—

(A) by striking "to monitor accounts of" and inserting "monitor accounts of,"; and

(B) by striking the comma after "organizations identified"; and

(4) in paragraph (3)(B), by inserting "financial" after "size, and nature of the".

(g) Section 321 of Public Law 107–56 is amended by striking "5312(2)" and inserting "5312(a)(2)".

(h) Section 325 of Public Law 107–56 is amended by striking "as amended by section 202 of this title," and inserting "as amended by section 352,".

(i) Subsections (a)(2) and (b)(2) of section 327 of Public Law 107–56 are each amended by inserting a period after "December 31, 2001" and striking all that follows through the period at the end of each such subsection.

(j) Section 356(c)(4) of Public Law 107–56 is amended by striking "or business or other grantor trust" and inserting ", business trust, or other grantor trust".

(k) Section 358(e) of Public Law 107–56 is amended—

(1) by striking "Section 123(a)" and inserting "That portion of section 123(a)";

(2) by striking "is amended to read" and inserting "that precedes paragraph (1) of such section is amended to read"; and

(3) by striking "." at the end of such section and inserting "—'".

(l) Section 360 of Public Law 107–56 is amended—

(1) in subsection (a), by inserting "the" after "utilization of the funds of"; and

(2) in subsection (b), by striking "at such institutions" and inserting "at such institution".

(m) Section 362(a)(1) of Public Law 107–56 is amended by striking "subchapter II or III" and inserting "subchapter II".

(n) Section 365 of Public Law 107—56 is amended —

(1) by redesignating the 2nd of the 2 subsections designated as subsection (c) (relating to a clerical amendment) as subsection (d); and

(2) by redesignating subsection (f) as subsection (e).

(o) Section 365(d) of Public Law 107–56 (as so redesignated by subsection (n) of this section) is amended by striking "section 5332 (as added by section 112 of this title)" and inserting "section 5330".

SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVISIONS OF LAW.

(a) Section 310(c) of title 31, United States Code, is amended by striking "the Network" each place such term appears and inserting "FinCEN".

(b) Section 5312(a)(3)(C) of title 31, United States Code, is amended by striking "sections 5333 and 5316" and inserting "sections 5316 and 5331".

(c) Section 5318(i) of title 31, United States Code, is amended—

(1) in paragraph (3)(B), by inserting a comma after "foreign political figure" the 2nd place such term appears; and

(2) in the heading of paragraph (4), by striking "DEFINITION" and inserting "DEFINITIONS".

(d) Section 5318(k)(1)(B) of title 31, United States Code, is amended by striking "section 5318A(f)(1)(B)" and inserting "section 5318A(e)(1)(B)".

(e) The heading for section 5318A of title 31, United States Code, is amended to read as follows:

"§ 5318A Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern".

(f) Section 5318A of title 31, United States Code, is amended—

(1) in subsection (a)(4)(A), by striking ", as defined in section 3 of the Federal Deposit Insurance Act," and inserting " (as defined in section 3 of the Federal Deposit Insurance Act)";

(2) in subsection (a)(4)(B)(iii), by striking "or class of transactions" and inserting "class of transactions, or type of account";

(3) in subsection (b)(1)(A), by striking "or class of transactions to be" and inserting "class of transactions, or type of account to be"; and

(4) in subsection (e)(3), by inserting "or subsection (i) or (j) of section 5318" after "identification of individuals under this section".

(g) Section 5324(b) of title 31, United States Code, is amended by striking "5333" each place such term appears and inserting "5331".

(h) Section 5332 of title 31, United States Code, is amended—

(1) in subsection (b)(2), by striking ", subject to subsection (d) of this section"; and

(2) in subsection (c)(1), by striking ", subject to subsection (d) of this section,".

(i) The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by striking the item relating to section 5318A and inserting the following new item:

"5318A. Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern.".

(j) Section 18(w)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(w)(3)) is amended by inserting a comma after "agent of such institution".

(k) Section 21(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(a)(2)) is amended by striking "recognizes that" and inserting "recognizing that".

(l) Section 626(e) of the Fair Credit Reporting Act (15 U.S.C. 1681v(e)) is amended by striking "governmental agency" and inserting "government agency".

SEC. 2114. REPEAL OF REVIEW.

Title III of Public Law 107–56 is amended by striking section 303 (31 U.S.C. 5311 note).

SEC. 2115. EFFECTIVE DATE.

The amendments made by this subtitle to Public Law 107–56, the United States Code, the Federal Deposit Insurance Act, and any other provision of law shall take effect as if such amendments had been included in Public Law 107–56, as of the date of the enactment of such Public Law, and no amendment made by such Public Law that is inconsistent with an amendment made by this subtitle shall be deemed to have taken effect.

Subchapter B—Additional Enforcement Tools

SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECURITY PRINTING.

(a) PRODUCTION OF DOCUMENTS.—Section 5114(a) of title 31, United States Code (relating to engraving and printing currency and security documents), is amended—

(1) by striking "(a) The Secretary of the Treasury" and inserting:

"(a) AUTHORITY TO ENGRAVE AND PRINT.—

"(1) IN GENERAL.—The Secretary of the Treasury"; and

(2) by adding at the end the following new paragraphs:

"(2) ENGRAVING AND PRINTING FOR OTHER GOVERNMENTS.—The Secretary of the Treasury may produce currency, postage stamps, and other security documents for foreign governments if—

"(A) the Secretary of the Treasury determines that such production will not interfere with engraving and printing needs of the United States; and

"(B) the Secretary of State determines that such production would be consistent with the foreign policy of the United States.

"(3) PROCUREMENT GUIDELINES.—Articles, material, and supplies procured for use in the production of currency, postage stamps, and other security documents for foreign governments pursuant to paragraph (2) shall be treated in the same manner as articles, material, and supplies procured for public use within the United States for purposes of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.; commonly referred to as the Buy American Act).".

(b) REIMBURSEMENT.—Section 5143 of title 31, United States Code (relating to payment for services of the Bureau of Engraving and Printing), is amended—

(1) in the first sentence, by inserting "or to a foreign government under section 5114" after "agency";

(2) in the second sentence, by inserting "and other" after "including administrative"; and

(3) in the last sentence, by inserting ", and the Secretary shall take such action, in coordination with the Secretary of State, as may be appropriate to ensure prompt payment by a foreign government of any invoice or statement of account submitted by the Secretary with respect to services rendered under section 5114" before the period at the end.

SEC. 2122. CONDUCT IN AID OF COUNTERFEITING.

(a) IN GENERAL.—Section 474(a) of title 18, United States Code, is amended by inserting after the paragraph beginning "Whoever has in his control, custody, or possession any plate" the following:

" Whoever, with intent to defraud, has in his custody, control, or possession any material that can be used to make, alter, forge or counterfeit any obligations and other securities of the United States or any part of such securities and obligations, except under the authority of the Secretary of the Treasury; or".

(b) FOREIGN OBLIGATIONS AND SECURITIES.—Section 481 of title 18, United States Code, is amended by inserting after the paragraph beginning "Whoever, with intent to defraud" the following:

" Whoever, with intent to defraud, has in his custody, control, or possession any material that can be used to make, alter, forge or counterfeit any obligation or other security of any foreign government, bank or corporation; or".

(c) COUNTERFEIT ACTS.—Section 470 of title 18, United States Code, is amended by striking "or 474" and inserting "474, or 474A".

(d) MATERIALS USED IN COUNTERFEITING.—Section 474A(b) of title 18, United States Code, is amended by striking "any essentially identical" and inserting "any thing or material made after or in the similitude of any".

Subtitle F—Criminal History Background Checks

SEC. 2141. SHORT TITLE.

This subtitle may be cited as the "Criminal History Access Means Protection of Infrastructures and Our Nation".

SEC. 2142. CRIMINAL HISTORY INFORMATION CHECKS.

(a) IN GENERAL.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

"(f)(1) Under rules prescribed by the Attorney General, the Attorney General shall establish and maintain a system for providing to an employer criminal history information that—

"(A) is in the possession of the Attorney General; and

"(B) is requested by an employer as part of an employee criminal history investigation that has been authorized by the State where the employee works or where the employer has their principal place of business;

in order to ensure that a prospective employee is suitable for certain employment positions.

"(2) The Attorney General shall require that an employer seeking criminal history information of an employee request such information and submit fingerprints or other biometric identifiers as approved by the Attorney General to provide a positive and reliable identification of such prospective employee.

"(3) The Director of the Federal Bureau of Investigation may require an employer to pay a reasonable fee for such information.

"(4) Upon receipt of fingerprints or other biometric identifiers, the Attorney General shall conduct an Integrated Fingerprint Identification System of the Federal Bureau of Investigation (IAFIS) check and provide the results of such check to the requester.

"(5) As used in this subsection,

"(A) the term 'criminal history information' and 'criminal history records" includes——

"(i) an identifying description of the individual to whom it pertains;

"(ii) notations of arrests, detentions, indictments, or other formal criminal charges pertaining to such individual; and

"(iii) any disposition to a notation revealed in subparagraph (B), including acquittal, sentencing, correctional supervision, or release.

"(B) the term 'Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation (IAFIS)' means the national depository for fingerprint, biometric, and criminal history information, through which fingerprints are processed electronically.

"(6) Nothing in this subsection shall preclude the Attorney General from authorizing or requiring criminal history record checks on individuals employed or seeking employment in positions vital to the Nation's critical infrastructure or key resources as those terms are defined in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)) and section 2(9) of the Homeland Security Act of 2002 (6 U.S.C. 101(9)).".

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Attorney General shall report to the appropriate committees of

Congress regarding all statutory requirements for criminal history record checks that are required to be conducted by the Department of Justice or any of its components.

(2) IDENTIFICATION OF INFORMATION.—The Attorney General shall identify the number of records requested, including the type of information requested, usage of different terms and definitions regarding criminal history information, and the variation in fees charged for such information and who pays such fees.

(3) RECOMMENDATIONS.—The Attorney General shall make recommendations for consolidating the existing procedures into a unified procedure consistent with that provided in section 534(f) of title 28, United States Code, as amended by this subtitle.

Subtitle G—Protection of United States Aviation System From Terrorist Attacks

SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR OTHER TECHNOLOGY.

(a) USE OF BIOMETRIC TECHNOLOGY.—Section 44903(h) of title 49, United States Code, is amended—

(1) in paragraph (4)(E) by striking "may provide for" and inserting "shall issue, not later than 120 days after the date of enactment of paragraph (5), guidance for"; and

(2) by adding at the end the following:

"(5) USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—In issuing guidance under paragraph (4)(E), the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with representatives of the aviation industry, the biometrics industry, and the National Institute of Standards and Technology, shall establish, at a minimum—

"(A) comprehensive technical and operational system requirements and performance standards for the use of biometrics in airport access control systems (including airport perimeter access control systems) to ensure that the biometric systems are effective, reliable, and secure;

"(B) a list of products and vendors that meet such requirements and standards;

"(C) procedures for implementing biometric systems—

"(i) to ensure that individuals do not use an assumed identity to enroll in a biometric system; and

"(ii) to resolve failures to enroll, false matches, and false nonmatches; and

"(D) best practices for incorporating biometric technology into airport access control systems in the most effective manner, including a process to best utilize existing airport access control systems, facilities, and equipment and existing data networks connecting airports.

"(6) USE OF BIOMETRIC TECHNOLOGY FOR LAW ENFORCEMENT OFFICER TRAVEL.—

"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph, the Assistant Secretary shall—

"(i) establish a law enforcement officer travel credential that incorporates biometrics and is uniform across all Federal, State, and local government law enforcement agencies;

"(ii) establish a process by which the travel credential will be used to verify the identity of a Federal, State, or local government law enforcement officer seeking to carry a weapon on board an aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer;

"(iii) establish procedures—

"(I) to ensure that only Federal, State, and local government law enforcement officers are issued the travel credential;

"(II) to resolve failures to enroll, false matches, and false nonmatches relating to use of the travel credential; and

"(III) to invalidate any travel credential that is lost, stolen, or no longer authorized for use;

"(iv) begin issuance of the travel credential to each Federal, State, and local government law enforcement officer authorized by the Assistant Secretary to carry a weapon on board an aircraft; and

"(v) take such other actions with respect to the travel credential as the Secretary considers appropriate.

"(B) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

"(7) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) BIOMETRIC INFORMATION.—The term 'biometric information' means the distinct physical or behavioral characteristics that are used for identification, or verification of the identity, of an individual.

"(B) BIOMETRICS.—The term 'biometrics" means a technology that enables the automated identification, or verification of the identity, of an individual based on biometric information.

"(C) FAILURE TO ENROLL.—The term 'failure to enroll' means the inability of an individual to enroll in a biometric system due to an insufficiently distinctive biometric sample, the lack of a body part necessary to provide the biometric sample, a system design that makes it difficult to provide consistent biometric information, or other factors.

"(D) FALSE MATCH.—The term 'false match' means the incorrect matching of one individual's biometric information to another individual's biometric information by a biometric system.

"(E) FALSE NON-MATCH.—The term 'false non-match' means the rejection of a valid identity by a biometric system.

"(F) SECURE AREA OF AN AIRPORT.—The term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).".

(b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—

(1) GRANT AUTHORITY.—Section 44923(a)(4) of title 49, United States Code, is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

"(4) for projects to implement biometric technologies in accordance with guidance issued under section 44903(h)(4)(E); and".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 44923(i)(1) of such title is amended by striking "$250,000,000 for each of fiscal years 2004 through 2007" and inserting "$250,000,000 for fiscal year 2004, $345,000,000 for fiscal year 2005, and $250,000,000 for each of fiscal years 2006 and 2007".

SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLANNING.

Section 44904 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

"(c) TRANSPORTATION SECURITY STRATEGIC PLANNING.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall prepare and update, as needed, a transportation sector specific plan and transportation modal security plans in accordance with this section.

"(2) CONTENTS.—At a minimum, the modal security plan for aviation prepared under paragraph (1) shall—

"(A) set risk-based priorities for defending aviation assets;

"(B) select the most practical and cost-effective methods for defending aviation assets;

"(C) assign roles and missions to Federal, State, regional, and local authorities and to stakeholders;

"(D) establish a damage mitigation and recovery plan for the aviation system in the event of a terrorist attack; and

"(E) include a threat matrix document that outlines each threat to the United States civil aviation system and the corresponding layers of security in place to address such threat.

"(3) REPORTS.—Not later than 180 days after the date of enactment of the subsection and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the plans prepared under paragraph (1), including any updates to the plans. The report may be submitted in a classified format.

"(d) OPERATIONAL CRITERIA.—Not later than 90 days after the date of submission of the report under subsection (c)(3), the Assistant Secretary of Homeland Security (Transportation Security Administration) shall issue operational criteria to protect airport infrastructure and operations against the threats identified in the plans prepared under subsection (c)(1) and shall approve best practices guidelines for airport assets.".

SEC. 2173. NEXT GENERATION AIRLINE PASSENGER PRESCREENING.

(a) IN GENERAL.—Section 44903(j)(2) of title 49, United States Code, is amended by adding at the end the following:

"(C) NEXT GENERATION AIRLINE PASSENGER PRESCREENING.—

"(i) COMMENCEMENT OF TESTING.—Not later than November 1, 2004, the Assistant Secretary of Homeland Security (Transportation Security Administration), or the designee of the Assistant Secretary, shall commence testing of a next generation passenger prescreening system that will allow the Department of Homeland Security to assume the performance of comparing passenger name records to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government.

"(ii) ASSUMPTION OF FUNCTION.—Not later than 180 days after completion of testing under clause (i), the Assistant Secretary, or the designee of the Assistant Secretary, shall assume the performance of the passenger prescreening function of comparing passenger name records to the automatic selectee and no fly lists and utilize all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government in performing that function.

"(iii) REQUIREMENTS.—In assuming performance of the function under clause (i), the Assistant Secretary shall—

"(I) establish a procedure to enable airline passengers, who are delayed or prohibited from boarding a flight because the next generation passenger prescreening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

"(II) ensure that Federal Government databases that will be used to establish the identity of a passenger under the system will not produce a large number of false positives;

"(III) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

"(IV) establish sufficient operational safeguards to reduce the opportunities for abuse;

"(V) implement substantial security measures to protect the system from unauthorized access;

"(VI) adopt policies establishing effective oversight of the use and operation of the system; and

"(VII) ensure that there are no specific privacy concerns with the technological architecture of the system.

"(iv) PASSENGER NAME RECORDS.—Not later than 60 days after the completion of the testing of the next generation passenger prescreening system, the Assistant Secretary shall require air carriers to supply to the Assistant Secretary the passenger name records needed to begin implementing the next generation passenger prescreening system.

"(D) SCREENING OF EMPLOYEES AGAINST WATCHLIST.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in coordination with the Secretary of Transportation and the Administrator of the Federal Aviation Administration, shall ensure that individuals are screened against all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government before—

"(i) being certificated by the Federal Aviation Administration;

"(ii) being issued a credential for access to the secure area of an airport; or

"(iii) being issued a credential for access to the air operations area (as defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section) of an airport.

"(E) APPEAL PROCEDURES.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under subparagraph (D) to appeal the determination and correct any erroneous information.

"(F) DEFINITION.—In this paragraph, the term 'secure area of an airport' means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).".

(b) GAO REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date on which the Assistant Secretary of Homeland Security (Transportation Security Administration) assumes performance of the passenger prescreening function under section

44903(j)(2)(C)(ii) of title 49, United States Code, the Comptroller General shall submit to the appropriate congressional committees a report on the assumption of such function. The report may be submitted in a classified format.

(2) CONTENTS.—The report under paragraph (1) shall address—

(A) whether a system exists in the next generation passenger prescreening system whereby aviation passengers, determined to pose a threat and either delayed or prohibited from boarding their scheduled flights by the Transportation Security Administration, may appeal such a decision and correct erroneous information;

(B) the sufficiency of identifying information contained in passenger name records and any government databases for ensuring that a large number of false positives will not result under the next generation passenger prescreening system in a significant number of passengers being treated as a threat mistakenly or in security resources being diverted;

(C) whether the Transportation Security Administration stress tested the next generation passenger prescreening system;

(D) whether an internal oversight board has been established in the Department of Homeland Security to monitor the next generation passenger prescreening system;

(E) whether sufficient operational safeguards have been established to prevent the opportunities for abuse of the system;

(F) whether substantial security measures are in place to protect the passenger prescreening database from unauthorized access;

(G) whether policies have been adopted for the effective oversight of the use and operation of the system;

(H) whether specific privacy concerns still exist with the system; and

(I) whether appropriate life cycle cost estimates have been developed, and a benefit and cost analysis has been performed, for the system.

SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.

(a) NONMETALLIC WEAPONS AND EXPLOSIVES.—In order to improve security, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall give priority to developing, testing, improving, and deploying technology at screening checkpoints at airports that will detect nonmetallic weapons and explosives on the person of individuals, in their clothing, or in their carry-on baggage or personal property and shall ensure that the equipment alone, or as part of an integrated system, can detect under realistic operating conditions the types of nonmetallic weapons and explosives that terrorists would likely try to smuggle aboard an air carrier aircraft.

(b) STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary shall transmit to the appropriate congressional committees a strategic plan to promote the optimal utilization and deployment of explosive detection systems at airports to screen individuals and their carry-on baggage or personal property, including walk-through explosive detection portals, document scanners, shoe scanners, and any other explosive detection equipment for use at a screening checkpoint. The plan may be transmitted in a classified format.

(2) CONTENTS.—The strategic plan shall include descriptions of the operational applications of explosive detection equipment at airport screening checkpoints, a deployment schedule and quantities of equipment needed to implement the plan, and funding needs for implementation of the plan, including a financing plan that provides for leveraging non-Federal funding.

SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-RESISTANT CARGO AND BAGGAGE CONTAINERS.

(a) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall carry out a pilot program to evaluate the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device.

(b) INCENTIVES FOR PARTICIPATION IN PILOT PROGRAM.—

(1) IN GENERAL.—As part of the pilot program, the Assistant Secretary shall provide incentives to air carriers to volunteer to test the use of blast-resistant containers for cargo and baggage on passenger aircraft.

(2) APPLICATIONS.—To volunteer to participate in the incentive program, an air carrier shall submit to the Assistant Secretary an application that is in such form and contains such information as the Assistant Secretary requires.

(3) TYPES OF ASSISTANCE.—Assistance provided by the Assistant Secretary to air carriers that volunteer to participate in the pilot program shall include the use of blast-resistant containers and financial assistance to cover increased costs to the carriers associated with the use and maintenance of the containers, including increased fuel costs.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall submit to appropriate congressional committees a report on the results of the pilot program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000. Such sums shall remain available until expended.

SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.

The Transportation Security Administration shall develop technology to better identify, track, and screen air cargo.

SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE DETECTION.

Section 44940 of title 49, United States Code, is amended by adding at the end the following:

"(i) CHECKPOINT SCREENING SECURITY FUND.—

"(1) ESTABLISHMENT.—There is established in the Department of Homeland Security a fund to be known as the 'Checkpoint Screening Security Fund'.

"(2) DEPOSITS.—In each of fiscal years 2005 and 2006, after amounts are made available under section 44923(h), the next $30,000,000 derived from fees received under subsection (a)(1) shall be available to be deposited in the Fund.

"(3) FEES.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect at least $30,000,000 in each of fiscal years 2005 and 2006 for deposit into the Fund.

"(4) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available for the purchase, deployment, and installation of equipment to improve the ability of security screening personnel at screening checkpoints to detect explosives.".

SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.

(a) PILOT PROGRAM.—The Transportation Security Administration shall develop, not later than 120 days after the date of enactment of this Act, and conduct a pilot program to test, integrate, and deploy next generation security checkpoint screening technology at not less than 5 airports in the United States.

(b) HUMAN FACTOR STUDIES.— The Administration shall conduct human factors studies to improve screener performance as part of the pilot program under subsection (a).

SEC. 2179. PENALTY FOR FAILURE TO SECURE COCKPIT DOOR.

(a) CIVIL PENALTY.—Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

"(6) PENALTY FOR FAILURE TO SECURE FLIGHT DECK DOOR.—Any person holding a part 119 certificate under part of title 14, Code of Federal Regulations, is liable to the Government for a civil penalty of not more than $25,000 for each violation, by the pilot in command of an aircraft owned or operated by such person, of any Federal regulation that requires that the flight deck door be closed and locked when the aircraft is being operated.".

(b) TECHNICAL CORRECTIONS.—

(1) COMPROMISE AND SETOFF FOR FALSE INFORMATION.—Section 46302(b) of such title is amended by striking "Secretary of Transportation" and inserting "Secretary of the Department of Homeland Security and, for a violation relating to section 46504, the Secretary of Transportation,".

(2) CARRYING A WEAPON.—Section 46303 of such title is amended—

(A) in subsection (b) by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security"; and

(B) in subsection (c)(2) by striking "Under Secretary of Transportation for Security" and inserting "Secretary of Homeland Security".

(3) ADMINISTRATIVE IMPOSITION OF PENALTIES.—Section 46301(d) of such title is amended—

(A) in the first sentence of paragraph (2) by striking "46302, 46303," and inserting "46302 (for a violation relating to section 46504),"; and

(B) in the second sentence of paragraph (2)—

(i) by striking "Under Secretary of Transportation for Security" and inserting "Secretary of Homeland Security"; and

(ii) by striking "44909)" and inserting "44909), 46302 (except for a violation relating to section 46504), 46303,";

(C) in each of paragraphs (2), (3), and (4) by striking "Under Secretary or" and inserting "Secretary of Homeland Security"; and

(D) in paragraph (4)(A) by moving clauses (i), (ii), and (iii) 2 ems to the left.

SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.

The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue to develop operational initiatives to protect the anonymity of Federal air marshals.

SEC. 2181. FEDERAL LAW ENFORCEMENT IN-FLIGHT COUNTERTERRORISM TRAINING.

The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall make available appropriate in-flight counterterrorism procedures and tactics training to Federal law enforcement officers who fly while on duty.

SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CARRIAGE PILOT PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Assistant Secretary may prescribe any training, equipment, or procedures that the Assistant Secretary determines necessary to ensure safety and maximize weapon retention.

(b) REVIEW.—Not later than 1 year after the date of initiation of the pilot program, the Assistant Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to the appropriate congressional committees.

(c) OPTION.—If the Assistant Secretary as part of the review under subsection (b) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Assistant Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Assistant Secretary determines appropriate.

SEC. 2183. REGISTERED TRAVELER PROGRAM.

The Transportation Security Administration shall expedite implementation of the registered traveler program.

SEC. 2184. WIRELESS COMMUNICATION.

(a) STUDY.—The Transportation Security Administration, in consultation with the Federal Aviation Administration, shall conduct a study to determine the viability of providing devices or methods, including wireless methods, to enable a flight crew to discreetly notify the pilot in the case of a security breach or safety issue occurring in the cabin.

(b) MATTERS TO BE CONSIDERED.—In conducting the study, the Transportation Security Administration and the Federal Aviation Administration shall consider technology that is readily available and can be quickly integrated and customized for use aboard aircraft for flight crew communication.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Transportation Security Administration shall submit to the appropriate congressional committees a report on the results of the study.

SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.

Not later than 6 months after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit to the appropriate congressional committees a report on the costs and benefits associated with the use of secondary flight deck barriers and whether the use of such barriers should be mandated for all air carriers. The Assistant Secretary may transmit the report in a classified format.

SEC. 2186. EXTENSION.

Section 48301(a) of title 49, United States Code, is amended by striking "and 2005" and inserting "2005, and 2006".

SEC. 2187. PERIMETER SECURITY.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with airport operators and law enforcement authorities, shall develop and submit to the appropriate congressional committee a report on airport perimeter security. The report may be submitted in a classified format.

(b) CONTENTS.—The report shall include—

(1) an examination of the feasibility of access control technologies and procedures, including the use of biometrics and other methods of positively identifying individuals prior to entry into secure areas of airports, and provide best practices for enhanced perimeter access control techniques; and

(2) an assessment of the feasibility of physically screening all individuals prior to entry into secure areas of an airport and additional methods for strengthening the background vetting process for all individuals credentialed to gain access to secure areas of airports.

SEC. 2188. DEFINITIONS.

In this title, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term "appropriate congressional committees" means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) AIR CARRIER.—The term "air carrier" has the meaning such term has under section 40102 of title 49, United States Code.

(3) SECURE AREA OF AN AIRPORT.—The term "secure area of an airport" means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

Subtitle H—Other Matters

SEC. 2191. GRAND JURY INFORMATION SHARING.

(a) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking "or state subdivision or of an Indian tribe" and inserting ", state subdivision, Indian tribe, or foreign government";

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: "An attorney for the government may also disclose any grand-jury matter involving a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate Federal, State, state subdivision, Indian tribal, or foreign government official for the purpose of preventing or responding to such a threat."; and

(ii) in clause (i)—

(I) by striking "federal"; and

(II) by adding at the end the following: "Any State, state subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and the National Intellience Director shall jointly issue."; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

"(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;"; and

(iii) in clause (iv), as redesignated—

(I) by striking "state or Indian tribal" and inserting "State, Indian tribal, or foreign"; and

(II) by striking "or Indian tribal official" and inserting "Indian tribal, or foreign government official"; and

(2) in paragraph (7), by inserting ", or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6," after "Rule 6".

(b) CONFORMING AMENDMENT.—Section 203(c) of Public Law 107–56 (18 U.S.C. 2517 note) is amended by striking "Rule 6(e)(3)(C)(i)(V) and (VI)" and inserting "Rule 6(e)(3)(D)".

SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND INTELLIGENCE DATA SYSTEM.

(a) FINDINGS.—The Congress finds as follows:

(1) The interoperable electronic data system know as the "Chimera system", and required to be developed and implemented by section 202(a)(2) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)(2)), has not in any way been implemented.

(2) Little progress has been made since the enactment of such Act with regard to establishing a process to connect existing trusted systems operated independently by the respective intelligence agencies.

(3) It is advisable, therefore, to assign such responsibility to the National Intelligence Director.

(4) The National Intelligence Director should, pursuant to the amendments made by subsection (c), begin systems planning immediately upon assuming office to deliver an interim system not later than 1 year after the date of the enactment of this Act, and to deliver the fully functional Chimera system not later than September 11, 2007.

(5) Both the interim system, and the fully functional Chimera system, should be designed so that intelligence officers, Federal law enforcement agencies (as defined in section 2 of such Act (8 U.S.C. 1701)), operational counter-terror support center personnel, consular officers, and Department of Homeland Security enforcement officers have access to them.

(b) PURPOSES.—The purposes of this section are as follows:

(1) To provide the National Intelligence Director with the necessary authority and resources to establish both an interim data system and, subsequently, a fully functional Chimera system, to collect and share intelligence and operational information with the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) To require the National Intelligence Director to establish a state-of-the-art Chimera system with both biometric identification and linguistic capabilities satisfying the best technology standards.

(3) To ensure that the National Intelligence Center will have a fully functional capability, not later than September 11, 2007, for interoperable data and intelligence exchange with the agencies of the intelligence community (as so defined).

(c) AMENDMENTS.—

(1) IN GENERAL.—Title II of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1721 et seq.) is amended—

(A) in section 202(a)—

(i) by amending paragraphs (1) and (2) to read as follows:

"(1) INTERIM INTEROPERABLE INTELLIGENCE DATA EXCHANGE SYSTEM.—Not later than 1 year after assuming office, the National Intelligence Director shall establish an interim interoperable intelligence data exchange system that will connect the data systems operated independently by the entities in the intelligence community and by the National Counterterrorism Center, so as to permit automated data exchange among all of these entities. Immediately upon assuming office, the National Intelligence Director shall begin the plans necessary to establish such interim system.

"(2) CHIMERA SYSTEM.—Not later than September 11, 2007, the National Intelligence Director shall establish a fully functional interoperable law enforcement and intelligence electronic data system within the National Counterterrorism Center to provide immediate access to information in databases of Federal law enforcement agencies and the intelligence community that is necessary to identify terrorists, and organizations and individuals that support terrorism. The system established under this paragraph shall referred to as the 'Chimera system'. ";

(ii) in paragraph (3)—

(I) by striking "President" and inserting "National Intelligence Director"; and

(II) by striking "the data system" and inserting "the interim system described in paragraph (1) and the Chimera system described in paragraph (2)";

(iii) in paragraph (4)(A), by striking "The data system" and all that follows through "(2)," and inserting "The interim system described in paragraph (1) and the Chimera system described in paragraph (2)";

(iv) in paragraph (5)—

(I) in the matter preceding subparagraph (A), by striking "data system under this subsection" and inserting "Chimera system described in paragraph (2)";

(II) in subparagraph (B), by striking "and" at the end;

(III) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(IV) by adding at the end the following:

"(D) to any Federal law enforcement or intelligence officer authorized to assist in the investigation, identification, or prosecution of terrorists, alleged terrorists, individuals supporting terrorist activities, and individuals alleged to support terrorist activities. "; and

(v) in paragraph (6)—

(I) by striking "President" and inserting "National Intelligence Director";

(II) by striking "the data system" and all that follows through "(2)," and inserting "the interim system described in paragraph (1) and the Chimera system described in paragraph (2)";

(B) in section 202(b)—

(i) in paragraph (1), by striking "The interoperable" and all that follows through "subsection (a)" and inserting "the Chimera system described in subsection (a)(2)";

(ii) in paragraph (2), by striking "interoperable electronic database" and inserting "Chimera system described in subsection (a)(2)"; and

(iii) by amending paragraph (4) to read as follows:

"(4) INTERIM REPORTS.—Not later than 6 months after assuming office, the National Intelligence Director shall submit a report to the appropriate committees of Congress on the progress in implementing each requirement of this section.";

(C) in section 204—

(i) by striking "Attorney General" each place such term appears and inserting "National Intelligence Director";

(ii) in subsection (d)(1), by striking "Attorney General's" and inserting "National Intelligence Director's"; and

(D) by striking section 203 and redesignating section 204 as section 203.

(2) CLERICAL AMENDMENT.—The table of contents for the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1701 et seq.) is amended—

(A) by striking the item relating to section 203; and

(B) by redesignating the item relating to section 204 as relating to section 203.

SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States and to meet the intelligence needs of the United States, Congress makes the following findings:

(1) The Federal Bureau of Investigation has made significant progress in improving its intelligence capabilities.

(2) The Federal Bureau of Investigation must further enhance and fully institutionalize its ability to prevent, preempt, and disrupt terrorist threats to our homeland, our people, our allies, and our interests.

(3) The Federal Bureau of Investigation must collect, process, share, and disseminate, to the greatest extent permitted by applicable law, to the President, the Vice President, and other officials in the Executive Branch, all terrorism information and other information necessary to safeguard our people and advance our national and homeland security interests.

(4) The Federal Bureau of Investigation must move towards full and seamless coordination and cooperation with all other elements of the Intelligence Community, including full participation in, and support to, the National Counterterrorism Center.

(5) The Federal Bureau of Investigation must strengthen its pivotal role in coordination and cooperation with Federal, State, tribal, and local law enforcement agencies to ensure the necessary sharing of information for counterterrorism and criminal law enforcement purposes.

(6) The Federal Bureau of Investigation must perform its vital intelligence functions in a manner consistent with both with national intelligence priorities and respect for privacy and other civil liberties under the Constitution and laws of the United States.

(b) IMPROVEMENT OF INTELLIGENCE CAPABILITIES.—The Director of the Federal Bureau of Investigation shall establish a comprehensive intelligence program for—

(1) intelligence analysis, including recruitment and hiring of analysts, analyst training, priorities and status for analysis, and analysis performance measures;

(2) intelligence production, including product standards, production priorities, information sharing and dissemination, and customer satisfaction measures;

(3) production of intelligence that is responsive to national intelligence requirements and priorities, including measures of the degree to which each FBI headquarters and field component is collecting and providing such intelligence;

(4) intelligence sources, including source validation, new source development, and performance measures;

(5) field intelligence operations, including staffing and infrastructure, management processes, priorities, and performance measures;

(6) full and seamless coordination and cooperation with the other components of the Intelligence Community, consistent with their responsibilities; and

(7) sharing of FBI intelligence and information across Federal, state, and local governments, with the private sector, and with foreign partners as provided by law or by guidelines of the Attorney General.

(c) INTELLIGENCE DIRECTORATE.—The Director of the Federal Bureau of Investigation shall establish an Intelligence Directorate within the FBI. The Intelligence Directorate shall have the authority to manage and direct the intelligence operations of all FBI headquarters and field components. The Intelligence Directorate shall have responsibility for all components and functions of the FBI necessary for—

(1) oversight of FBI field intelligence operations;

(2) FBI human source development and management;

(3) FBI collection against nationally-determined intelligence requirements;

(4) language services;

(5) strategic analysis;

(6) intelligence program and budget management; and

(7) the intelligence workforce.

(d) NATIONAL SECURITY WORKFORCE.—The Director of the Federal Bureau of Investigation shall establish a specialized, integrated intelligence cadre composed of Special Agents, analysts, linguists, and surveillance specialists in a manner which creates and sustains within the FBI a workforce with substantial expertise in, and commitment to, the intelligence mission of the FBI. The Director shall—

(1) ensure that these FBI employees may make their career, including promotion to the most senior positions in the FBI, within this career track;

(2) establish intelligence cadre requirements for—

(A) training;

(B) career development and certification;

(C) recruitment, hiring, and selection;

(D) integrating field intelligence teams; and

(E) senior level field management;

(3) establish intelligence officer certification requirements, including requirements for training courses and assignments to other intelligence, national security, or homeland security components of the Executive branch, in order to advance to senior operational management positions in the FBI;

(4) ensure that the FBI's recruitment and training program enhances its ability to attract individuals with educational and professional backgrounds in intelligence, international relations, language, technology, and other skills relevant to the intelligence mission of the FBI;

(5) ensure that all Special Agents and analysts employed by the FBI after the date of the enactment of this Act shall receive basic training in both criminal justice matters and intelligence matters;

(6) ensure that all Special Agents employed by the FBI after the date of the enactment of this Act, to the maximum extent practicable, be given an opportunity to undergo, during their early service with the FBI, meaningful assignments in criminal justice matters and in intelligence matters;

(7) ensure that, to the maximum extent practical, Special Agents who specialize in intelligence are afforded the opportunity to work on intelligence matters over the remainder of their career with the FBI; and

(8) ensure that, to the maximum extent practical, analysts are afforded FBI training and career opportunities commensurate with the training and career opportunities afforded analysts in other elements of the intelligence community.

(e) FIELD OFFICE MATTERS.—The Director of the Federal Bureau of Investigation shall take appropriate actions to ensure the integration of analysis, Special Agents, linguists, and surveillance personnel in FBI field intelligence components and to provide effective leadership and infrastructure to support FBI field intelligence components. The Director shall—

(1) ensure that each FBI field office has an official at the level of Assistant Special Agent in Charge or higher with responsibility for the FBI field intelligence component; and

(2) to the extent practicable, provide for such expansion of special compartmented information facilities in FBI field offices as is necessary to ensure the

discharge by the field intelligence components of the national security and criminal intelligence mission of the FBI.

(g) BUDGET MATTERS.—The Director of the Federal Bureau of Investigation shall, in consultation with the Director of the Office of Management and Budget, modify the budget structure of the FBI in order to organize the budget according to its four main programs as follows:

(1) Intelligence.

(2) Counterterrorism and counterintelligence.

(3) Criminal enterprise/Federal crimes.

(4) Criminal justice services.

(h) REPORTS.—

(1)(A) Not later than 180 days after the date of the enactment of this Act, and every twelve months thereafter, the Director of the Federal Bureau of Investigation shall submit to Congress a report on the progress made as of the date of such report in carrying out the requirements of this section.

(B) The Director shall include in the first report required by subparagraph (A) an estimate of the resources required to complete the expansion of special compartmented information facilities to carry out the intelligence mission of FBI field intelligence components.

(2) In each annual report required by paragraph (1)(A) the director shall include—

(A) a report on the progress made by each FBI field office during the period covered by such review in addressing FBI and national intelligence priorities;

(B) a report assessing the qualifications, status, and roles of analysts at FBI headquarters and in FBI field offices; and

(C) a report on the progress of the FBI in implementing information-sharing principles.

(3) A report required by this subsection shall be submitted—

(A) to each committee of Congress that has jurisdiction over the subject matter of such report; and

(B) in unclassified form, but may include a classified annex.

TITLE III—BORDER SECURITY AND TERRORIST TRAVEL

Subtitle A—Immigration Reform in the National Interest

CHAPTER 1—GENERAL PROVISIONS

SEC. 3001. ELIMINATING THE "WESTERN HEMISPHERE" EXCEPTION FOR CITIZENS.

(a) IN GENERAL.—

(1) IN GENERAL.—Section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)) is amended to read as follows:

"(b)(1) Except as otherwise provided in this subsection, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless the citizen bears a valid United States passport.

"(2) Subject to such limitations and exceptions as the President may authorize and prescribe, the President may waive the application of paragraph (1) in the case of a citizen departing the United States to, or entering the United States from, foreign contiguous territory.

"(3) The President, if waiving the application of paragraph (1) pursuant to paragraph (2), shall require citizens departing the United States to, or entering the United States from, foreign contiguous territory to bear a document (or combination of documents) designated by the Secretary of Homeland Security under paragraph (4).

"(4) The Secretary of Homeland Security—

"(A) shall designate documents that are sufficient to denote identity and citizenship in the United States such that they may be used, either individually or in conjunction with another document, to establish that the bearer is a citizen or national of the United States for purposes of lawfully departing from or entering the United States; and

"(B) shall publish a list of those documents in the Federal Register.

"(5) A document may not be designated under paragraph (4) (whether alone or in combination with other documents) unless the Secretary of Homeland Security determines that the document—

"(A) may be relied upon for the purposes of this subsection; and

"(B) may not be issued to an alien unlawfully present in the United States.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2006.

(b) INTERIM RULE.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security—

(A) shall designate documents that are sufficient to denote identity and citizenship in the United States such that they may be used, either individually or in conjunction with another document, to establish that the bearer is a citizen or national of the United States for purposes of lawfully departing from or entering the United States; and

(B) shall publish a list of those documents in the Federal Register.

(2) LIMITATION ON PRESIDENTIAL AUTHORITY.—Beginning on the date that is 90 days after the publication described in paragraph (1)(B), the President, notwithstanding section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)), may not exercise the President's authority under such section so as to permit any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States from any country other than foreign contiguous territory, unless the citizen bears a document (or combination of documents) designated under paragraph (1)(A).

(3) CRITERIA FOR DESIGNATION.—A document may not be designated under paragraph (1)(A) (whether alone or in combination with other documents) unless the Secretary of Homeland Security determines that the document—

(A) may be relied upon for the purposes of this subsection; and

(B) may not be issued to an alien unlawfully present in the United States.

(4) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act and shall cease to be effective on September 30, 2006.

SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH RESPECT TO DOCUMENTATION REQUIREMENTS FOR NATIONALS OF FOREIGN CONTIGUOUS TERRITORIES AND ADJACENT ISLANDS.

(a) IN GENERAL.—Section 212(d)(4) of the Immigration and Nationality Act (8 U.S.C.1182(d)(4)) is amended—

(1) by striking "Attorney General" and inserting "Secretary of Homeland Security";

(2) by striking "on the basis of reciprocity" and all that follows through "or (C)"; and

(3) by adding at the end the following:

"Either or both of the requirements of such paragraph may also be waived by the Secretary of Homeland Security and the Secretary of State, acting jointly and on the basis of reciprocity, with respect to nationals of foreign contiguous territory or of adjacent islands, but only if such nationals are required, in order to be admitted into the United States, to be in possession of identification deemed by the Secretary of Homeland Security to be secure.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2006.

SEC. 3003. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active-duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 1324a). Each State shall be allotted at least 3 of these additional investigators.

SEC. 3005. ALIEN IDENTIFICATION STANDARDS.

Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended by adding at the end the following:

"(d) For purposes of establishing identity to any Federal employee, an alien present in the United States may present any document issued by the Attorney General or the Secretary of Homeland Security under the authority of one of the immigration laws (as defined in section 101(a)(17)), or an unexpired lawfully issued foreign passport. Subject to the limitations and exceptions in immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), no other document may be presented for those purposes.".

SEC. 3006. EXPEDITED REMOVAL.

Section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking clauses (i) through (iii) and inserting the following:

"(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5–year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review, unless—

"(I) the alien has been charged with a crime, is in criminal proceedings, or is serving a criminal sentence; or

"(II) the alien indicates an intention to apply for asylum under section 208 or a fear of persecution and the officer determines that the alien has been physically present in the United States for less than 1 year.

"(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5–year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B) if the officer determines that the alien has been physically present in the United States for less than 1 year.".

SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING ASYLUM.

(a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended—

(1) in paragraph (1), by striking "The Attorney General" and inserting the following:

"(A) ELIGIBILITY.—The Secretary of Homeland Security or the Attorney General"; and

(2) by adding at the end the following:

"(B) BURDEN OF PROOF.—The burden of proof is on the applicant to establish that the applicant is a refugee within the meaning of section 101(a)(42)(A). To establish that the applicant is a refugee within the meaning of this Act, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be the central motive for persecuting the applicant. The testimony of the applicant may be sufficient to sustain such burden without corroboration, but only if it is credible, is persuasive, and refers to specific facts that demonstrate that the applicant is a refugee. Where the trier of fact finds that it is reasonable to expect corroborating evidence for certain alleged facts pertaining to the specifics of the applicant's claim, such evidence must be provided unless a reasonable explanation is given as to why such information is not provided. The credibility determination of the trier of fact may be based, in addition to other factors, on the demeanor, candor, or responsiveness of the applicant or witness, the consistency between the applicant's or witness's written and oral statements, whether or not under oath, made at any time to any officer, agent, or employee of the United States, the internal consistency of each such statement, the consistency of such statements with the country conditions in the country from which the applicant

claims asylum (as presented by the Department of State) and any inaccuracies or falsehoods in such statements. These factors may be considered individually or cumulatively.".

(b) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—Section 242(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(4)) is amended by adding after subparagraph (D) the following flush language: "No court shall reverse a determination made by an adjudicator with respect to the availability of corroborating evidence as described in section 208(b)(1)(B), unless the court finds that a reasonable adjudicator is compelled to conclude that such corroborating evidence is unavailable.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect upon the date of enactment of this Act and shall apply to cases in which the final administrative removal order was issued before, on, or after the date of enactment of this Act.

SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL DOCUMENTATION.

(a) LIMITATION ON REVIEW.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: "There shall be no means of administrative or judicial review of a revocation under this subsection, and no court or other person otherwise shall have jurisdiction to consider any claim challenging the validity of such a revocation.".

(b) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking "United States is" and inserting the following: "United States, or whose nonimmigrant visa (or other documentation authorizing admission into the United States as a nonimmigrant) has been revoked under section 221(i), is".

(c) REVOCATION OF PETITIONS.—Section 205 of the Immigration and Nationality Act (8 U.S.C. 1155) is amended—

(1) by striking "Attorney General" and inserting "Secretary of Homeland Security"; and

(2) by striking the final two sentences.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to revocations under sections 205 and 221(i) of the Immigration and Nationality Act made before, on, or after such date.

SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraphs (A), (B), and (C), by inserting "(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code" after "Notwithstanding any other provision of law"; and

(ii) by adding at the end the following:

"(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in this paragraph shall be construed as precluding consideration by the circuit courts of appeals of constitutional claims or pure questions of law raised upon petitions for review filed in accordance with this section. Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or, except as provided in subsection (e), any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, such petitions for review shall be the sole and exclusive means of raising any and all claims with respect to orders of removal entered or issued under any provision of this Act."; and

(B) by adding at the end the following:

"(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a petition for review by the circuit courts of appeals filed in accordance with this section is the sole and exclusive means of judicial review of claims arising under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment.

"(5) EXCLUSIVE MEANS OF REVIEW.—The judicial review specified in this subsection shall be the sole and exclusive means for review by any court of an order of removal entered or issued under any provision of this Act. For purposes of this title, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include ha-

beas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of title 28, United States Code, and review pursuant to any other provision of law.";

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting "pursuant to subsection (f)" after "unless"; and

(B) in paragraph (9), by adding at the end the following: "Except as otherwise provided in this subsection, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of title 28, United States Code, or by any other provision of law (statutory or nonstatutory), to hear any cause or claim subject to these consolidation provisions.";

(3) in subsection (f)(2), by inserting "or stay, by temporary or permanent order, including stays pending judicial review," after "no court shall enjoin"; and

(4) in subsection (g), by inserting "(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code" after "notwithstanding any other provision of law".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of enactment of this Act and shall apply to cases in which the final administrative removal order was issued before, on, or after the date of enactment of this Act.

CHAPTER 2—DEPORTATION OF TERRORISTS AND SUPPORTERS OF TERRORISM

SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION ON REMOVAL.

(a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in the matter preceding clause (i), by striking "section 237(a)(4)(D)" and inserting "paragraph (4)(B) or (4)(D) of section 237(a)"; and

(2) in clause (iii), by striking "or";

(3) in clause (iv), by striking the period and inserting "; or" ;

(4) by inserting after clause (iv) and following:

"(v) the alien is described in subclause (I), (II), (III), (IV), or (VI) of section 212(a)(3)(B)(i) or section 237(a)(4)(B), unless, in the case only of an alien described in subclause (IV) of section 212(a)(3)(B)(i), the Secretary of Homeland Security determines, in the Secretary's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States."; and

(5) by striking the last sentence.

(b) EXCEPTIONS.—Section 208(b)(2)(A)(v) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is amended—

(1) by striking "inadmissible under" each place such term appears and inserting "described in"; and

(2) by striking "removable under".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this Act; and

(2) acts and conditions constituting a ground for inadmissibility or removal occurring or existing before, on, or after such date.

SEC. 3032. EXCEPTION TO RESTRICTION ON REMOVAL FOR TERRORISTS AND CRIMINALS.

(a) REGULATIONS.—

(1) REVISION DEADLINE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall revise the regulations prescribed by the Secretary to implement the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) EXCLUSION OF CERTAIN ALIENS.—The revision—

(A) shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) (as amended by this title), including rendering such aliens ineligible for withholding or deferral of removal under the Convention; and

(B) shall ensure that the revised regulations operate so as to—

(i) allow for the reopening of determinations made under the regulations before the effective date of the revision; and

(ii) apply to acts and conditions constituting a ground for ineligibility for the protection of such regulations, as revised, regardless of when such acts or conditions occurred.

(3) BURDEN OF PROOF.—The revision shall also ensure that the burden of proof is on the applicant for withholding or deferral of removal under the Convention to establish by clear and convincing evidence that he or she would be tortured if removed to the proposed country of removal.

(b) JUDICIAL REVIEW.—Notwithstanding any other provision of law, no court shall have jurisdiction to review the regulations adopted to implement this section, and nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.

(a) IN GENERAL.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (1)—

(A) in each of subparagraphs (A) and (B), by striking the period at the end and inserting "unless, in the opinion of the Secretary of Homeland Security, removing the alien to such country would be prejudicial to the United States."; and

(B) by amending subparagraph (C) to read as follows:

"(C) ALTERNATIVE COUNTRIES.—If the alien is not removed to a country designated in subparagraph (A) or (B), the Secretary of Homeland Security shall remove the alien to—

"(i) the country of which the alien is a citizen, subject, or national, where the alien was born, or where the alien has a residence, unless the country physically prevents the alien from entering the country upon the alien's removal there; or

"(ii) any country whose government will accept the alien into that country."; and

(2) in paragraph (2)—

(A) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security";

(B) by amending subparagraph (D) to read as follows:

"(D) ALTERNATIVE COUNTRIES.—If the alien is not removed to a country designated under subparagraph (A)(i), the Secretary of Homeland Security shall remove the alien to a country of which the alien is a subject, national, or citizen, or where the alien has a residence, unless—

"(i) such country physically prevents the alien from entering the country upon the alien's removal there; or

"(ii) in the opinion of the Secretary of Homeland Security, removing the alien to the country would be prejudicial to the United States."; and

(C) by amending subparagraph (E)(vii) to read as follows:

"(vii) Any country whose government will accept the alien into that country.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any deportation, exclusion, or removal on or after such date pursuant to any deportation, exclusion, or removal order, regardless of whether such order is administratively final before, on, or after such date.

Subtitle B—Identity Management Security

CHAPTER 1—IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS

SEC. 3051. DEFINITIONS.

In this chapter, the following definitions apply:

(1) DRIVER'S LICENSE.—The term "driver's license" means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD.—The term "identification card" means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(4) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of enactment of this Act, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) MINIMUM DOCUMENT REQUIREMENTS.—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver license or identification card number.

(5) A photograph of the person.

(6) The person's address of principal residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1).

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

SEC. 3053. LINKING OF DATABASES.

(a) IN GENERAL.—To be eligible to receive any grant or other type of financial assistance made available under this subtitle, a State shall participate in the interstate compact regarding sharing of driver license data, known as the "Driver License Agreement", in order to provide electronic access by a State to information contained in the motor vehicle databases of all other States.

(b) REQUIREMENTS FOR INFORMATION.—A State motor vehicle database shall contain, at a minimum, the following information:

(1) All data fields printed on drivers' licenses and identification cards issued by the State.

(2) Motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

Section 1028(a)(8) of title 18, United States Code, is amended by striking "false authentication features" and inserting "false or actual authentication features".

SEC. 3055. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this chapter.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this chapter.

SEC. 3056. AUTHORITY.

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, certify standards, and issue grants under this chapter shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 3052(a)(1) if the State provides adequate justification for noncompliance.

CHAPTER 2—IMPROVED SECURITY FOR BIRTH CERTIFICATES

SEC. 3061. DEFINITIONS.

(a) APPLICABILITY OF DEFINITIONS.—Except as otherwise specifically provided, the definitions contained in section 3051 apply to this chapter.

(b) OTHER DEFINITIONS.—In this chapter, the following definitions apply:

(1) BIRTH CERTIFICATE.—The term "birth certificate" means a certificate of birth—

(A) for an individual (regardless of where born)—

(i) who is a citizen or national of the United States at birth; and

(ii) whose birth is registered in the United States; and

(B) that—

(i) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

(ii) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.

(2) REGISTRANT.—The term "registrant" means, with respect to a birth certificate, the person whose birth is registered on the certificate.

(3) STATE.—The term "State" shall have the meaning given such term in section 3051; except that New York City shall be treated as a State separate from New York.

SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO LOCAL GOVERNMENTS.

The minimum standards in this chapter applicable to birth certificates issued by a State shall also apply to birth certificates issued by a local government in the

State. It shall be the responsibility of the State to ensure that local governments in the State comply with the minimum standards.

SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNITION.

(a) MINIMUM STANDARDS FOR FEDERAL USE.—

(1) IN GENERAL.—Beginning 3 years after the date of enactment of this Act, a Federal agency may not accept, for any official purpose, a birth certificate issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS.—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Health and Human Services, may prescribe by regulation.

(b) MINIMUM DOCUMENT STANDARDS.—To meet the requirements of this section, a State shall include, on each birth certificate issued to a person by the State, the use of safety paper, the seal of the issuing custodian of record, and such other features as the Secretary may determine necessary to prevent tampering, counterfeiting, and otherwise duplicating the birth certificate for fraudulent purposes. The Secretary may not require a single design to which birth certificates issued by all States must conform.

(c) MINIMUM ISSUANCE STANDARDS.—

(1) IN GENERAL.—To meet the requirements of this section, a State shall require and verify the following information from the requestor before issuing an authenticated copy of a birth certificate:

(A) The name on the birth certificate.

(B) The date and location of the birth.

(C) The mother's maiden name.

(D) Substantial proof of the requestor's identity.

(2) ISSUANCE TO PERSONS NOT NAMED ON BIRTH CERTIFICATE.—To meet the requirements of this section, in the case of a request by a person who is not named on the birth certificate, a State must require the presentation of legal authorization to request the birth certificate before issuance.

(3) ISSUANCE TO FAMILY MEMBERS.—Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services and the States, shall establish minimum standards for issuance of a birth certificate to specific family members, their authorized representatives, and others who demonstrate that the certificate is needed for the protection of the requestor's personal or property rights.

(4) WAIVERS.—A State may waive the requirements set forth in subparagraphs (A) through (C) of subsection (c)(1) in exceptional circumstances, such as the incapacitation of the registrant.

(5) APPLICATIONS BY ELECTRONIC MEANS.—To meet the requirements of this section, for applications by electronic means, through the mail or by phone or fax, a State shall employ third party verification, or equivalent verification, of the identity of the requestor.

(6) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall verify the documents used to provide proof of identity of the requestor.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt, at a minimum, the following practices in the issuance and administration of birth certificates:

(1) Establish and implement minimum building security standards for State and local vital record offices.

(2) Restrict public access to birth certificates and information gathered in the issuance process to ensure that access is restricted to entities with which the State has a binding privacy protection agreement.

(3) Subject all persons with access to vital records to appropriate security clearance requirements.

(4) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance process.

(5) Establish and implement internal operating system standards for paper and for electronic systems.

(6) Establish a central database that can provide interoperative data exchange with other States and with Federal agencies, subject to privacy restrictions and confirmation of the authority and identity of the requestor.

(7) Ensure that birth and death records are matched in a comprehensive and timely manner, and that all electronic birth records and paper birth certificates of decedents are marked "deceased".

(8) Cooperate with the Secretary in the implementation of electronic verification of vital events under section 3065.

SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND DEATH REGISTRATION SYSTEMS.

In consultation with the Secretary of Health and Human Services and the Commissioner of Social Security, the Secretary shall take the following actions:

(1) Work with the States to establish a common data set and common data exchange protocol for electronic birth registration systems and death registration systems.

(2) Coordinate requirements for such systems to align with a national model.

(3) Ensure that fraud prevention is built into the design of electronic vital registration systems in the collection of vital event data, the issuance of birth certificates, and the exchange of data among government agencies.

(4) Ensure that electronic systems for issuing birth certificates, in the form of printed abstracts of birth records or digitized images, employ a common format of the certified copy, so that those requiring such documents can quickly confirm their validity.

(5) Establish uniform field requirements for State birth registries.

(6) Not later than 1 year after the date of enactment of this Act, establish a process with the Department of Defense that will result in the sharing of data, with the States and the Social Security Administration, regarding deaths of United States military personnel and the birth and death of their dependents.

(7) Not later than 1 year after the date of enactment of this Act, establish a process with the Department of State to improve registration, notification, and the sharing of data with the States and the Social Security Administration, regarding births and deaths of United States citizens abroad.

(8) Not later than 3 years after the date of establishment of databases provided for under this section, require States to record and retain electronic records of pertinent identification information collected from requestors who are not the registrants.

(9) Not later than 6 months after the date of enactment of this Act, submit to Congress, a report on whether there is a need for Federal laws to address penalties for fraud and misuse of vital records and whether violations are sufficiently enforced.

SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.

(a) LEAD AGENCY.—The Secretary shall lead the implementation of electronic verification of a person's birth and death.

(b) REGULATIONS.—In carrying out subsection (a), the Secretary shall issue regulations to establish a means by which authorized Federal and State agency users with a single interface will be able to generate an electronic query to any participating vital records jurisdiction throughout the Nation to verify the contents of a paper birth certificate. Pursuant to the regulations, an electronic response from the participating vital records jurisdiction as to whether there is a birth record in their database that matches the paper birth certificate will be returned to the user, along with an indication if the matching birth record has been flagged "deceased". The regulations shall take effect not later than 5 years after the date of enactment of this Act.

SEC. 3066. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this chapter.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this chapter.

SEC. 3067. AUTHORITY.

(a) PARTICIPATION WITH FEDERAL AGENCIES AND STATES.—All authority to issue regulations, certify standards, and issue grants under this chapter shall be carried out by the Secretary, with the concurrence of the Secretary of Health and Human Services and in consultation with State vital statistics offices and appropriate Federal agencies.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 3063(a)(1) if the State provides adequate justification for noncompliance.

Chapter 3—Measures To Enhance Privacy and Integrity of Social Security Account Numbers

SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS.

(a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(1) by inserting "(I)" after "(vi)"; and

(2) by adding at the end the following new subclause:

"(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license or motor vehicle registration or any other document issued by such State or political subdivision to an individual for purposes of identification of such individual or include on any such licence, registration, or other document a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to licenses, registrations, and other documents issued or reissued after 1 year after the date of the enactment of this Act.

SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH RECORDS PROVIDED IN SUPPORT OF APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.

(a) APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended—

(1) by inserting "(I)" after "(ii)"; and

(2) by adding at the end the following new subclause:

"(II) With respect to an application for a social security account number for an individual, other than for purposes of enumeration at birth, the Commissioner shall require independent verification of any birth record provided by the applicant in support of the application. The Commissioner may provide by regulation for reasonable exceptions from the requirement for independent verification under this subclause in any case in which the Commissioner determines there is minimal opportunity for fraud.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to applications filed after 270 days after the date of the enactment of this Act.

(c) STUDY REGARDING APPLICATIONS FOR REPLACEMENT SOCIAL SECURITY CARDS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to test the feasibility and cost effectiveness of verifying all identification documents submitted by an applicant for a replacement social security card. As part of such study, the Commissioner shall determine the feasibility of, and the costs associated with, the development of appropriate electronic processes for third party verification of any such identification documents which are issued by agencies and instrumentalities of the Federal Government and of the States (and political subdivisions thereof).

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for verifying identification documents submitted by applicants for replacement social security cards.

SEC. 3073. ENUMERATION AT BIRTH.

(a) IMPROVEMENT OF APPLICATION PROCESS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake to make improvements to the enumeration at birth program for the issuance of social security account numbers to newborns. Such improvements shall be designed to prevent—

(A) the assignment of social security account numbers to unnamed children;

(B) the issuance of more than 1 social security account number to the same child; and

(C) other opportunities for fraudulently obtaining a social security account number.

(2) REPORT TO THE CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall transmit to each House of the Congress a report specifying in detail the extent to which the improvements required under paragraph (1) have been made.

(b) STUDY REGARDING PROCESS FOR ENUMERATION AT BIRTH.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to determine the most efficient options for ensuring the integrity of the process for enumeration at birth. Such study shall include an examination of available methods for reconciling hospital birth records with birth registrations submitted to agencies of States and political subdivisions thereof and with information provided to the Commissioner as part of the process for enumeration at birth.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under paragraph (1). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for enumeration at birth.

SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC IDENTIFICATION IN CONNECTION WITH APPLICATIONS FOR BENEFITS, SOCIAL SECURITY ACCOUNT NUMBERS, AND SOCIAL SECURITY CARDS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall undertake a study to—

(1) determine the best method of requiring and obtaining photographic identification of applicants for old-age, survivors, and disability insurance benefits under title II of the Social Security Act, for a social security account number, or for a replacement social security card, and of providing for reasonable exceptions to any requirement for photographic identification of such applicants that may be necessary to promote efficient and effective administration of such title, and

(2) evaluate the benefits and costs of instituting such a requirement for photographic identification, including the degree to which the security and integrity of the old-age, survivors, and disability insurance program would be enhanced.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under subsection (a). Such report shall contain such recommendations for legislative changes as the Commissioner considers necessary relating to requirements for photographic identification of applicants described in subsection (a).

SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended by adding at the end the following new sentence: "The Commissioner shall restrict the issuance of multiple replacement social security cards to any individual to 3 per year and to 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.".

(b) REGULATIONS AND EFFECTIVE DATE.—The Commissioner of Social Security shall issue regulations under the amendment made by subsection (a) not later than 1 year after the date of the enactment of this Act. Systems controls developed by the Commissioner pursuant to such amendment shall take effect upon the earlier of the issuance of such regulations or the end of such 1–year period.

SEC. 3076. STUDY RELATING TO MODIFICATION OF THE SOCIAL SECURITY ACCOUNT NUMBERING SYSTEM TO SHOW WORK AUTHORIZATION STATUS.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall undertake a study to examine the best method of modifying the social security account number assigned to individuals who—

(1) are not citizens of the United States,

(2) have not been admitted for permanent residence, and

(3) are not authorized by the Secretary of Homeland Security to work in the United States, or are so authorized subject to one or more restrictions,

so as to include an indication of such lack of authorization to work or such restrictions on such an authorization.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study undertaken under this section. Such report shall include the Commissioner's recommendations of feasible options for modifying the social security account number in the manner described in subsection (a).

Subtitle C—Targeting Terrorist Travel

SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS AND TRAVEL HISTORY DATABASE.

(a) IN GENERAL.—Not later than May 31, 2005, the Comptroller General of the United States, the Secretary of State, and the Secretary of Homeland Security each shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate the results of a separate study on the subjects described in subsection (c).

(b) STUDY.—The study submitted by the Secretary of State under subsection (a) shall be completed by the Office of Visa and Passport Control of the Department of State, in coordination with the appropriate officials of the Department of Homeland Security.

(c) CONTENTS.—The studies described in subsection (a) shall examine the feasibility, cost, potential benefits, and relative importance to the objectives of tracking suspected terrorists' travel, and apprehending suspected terrorists, of each of the following:

(1) Requiring nationals of all countries to present machine-readable, tamper-resistant passports that incorporate biometric and document authentication identifiers.

(2) Creation of a database containing information on the lifetime travel history of each foreign national or United States citizen who might seek to enter the United States or another country at any time, in order that border and visa issuance officials may ascertain the travel history of a prospective entrant by means other than a passport.

(d) INCENTIVES.—The studies described in subsection (a) shall also make recommendations on incentives that might be offered to encourage foreign nations to participate in the initiatives described in paragraphs (1) and (2) of subsection (c).

SEC. 3082. EXPANDED PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) is amended—

(1) by striking "October 31, 2000," and inserting "January 1, 2008,";

(2) by striking "5 additional" and inserting "up to 25 additional";

(3) by striking "number of aliens" and inserting "number of inadmissible aliens, especially aliens who are potential terrorists,";

(4) by striking "who are inadmissible to the United States." and inserting a period; and

(5) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security".

(b) REPORT.—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall report to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate on the progress being made in implementing the amendments made by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a)—

(1) $24,000,000 for fiscal year 2005;

(2) $48,000,000 for fiscal year 2006; and

(3) $97,000,000 for fiscal year 2007.

SEC. 3083. IMMIGRATION SECURITY INITIATIVE.

(a) IN GENERAL.—Section 235A(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) is amended—

(1) in the subsection heading, by inserting "AND IMMIGRATION SECURITY INITIATIVE" after "PROGRAM"; and

(2) by adding at the end the following:

"Beginning not later than December 31, 2006, the number of airports selected for an assignment under this subsection shall be at least 50.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a)—

(1) $25,000,000 for fiscal year 2005;
(2) $40,000,000 for fiscal year 2006; and
(3) $40,000,000 for fiscal year 2007.

SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR NONIMMIGRANT VISA SCREENING.—Section 222(d) of the Immigration and Nationality Act (8 U.S.C. 1202(d)) is amended by adding at the end the following:

"All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: "As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.".

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND RELATED ACTIVITY.

Section 1028 of title 18, United States Code, relating to penalties for fraud and related activity in connection with identification documents and information, is amended—

(1) in subsection (b)(1)(A)(i), by striking "issued by or under the authority of the United States" and inserting the following: "as described in subsection (d)";
(2) in subsection (b)(2), by striking "three years" and inserting "six years";
(3) in subsection (b)(3), by striking "20 years" and inserting "25 years";
(4) in subsection (b)(4), by striking "25 years" and inserting "30 years"; and
(5) in subsection (c)(1), by inserting after "United States" the following: "Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization,".

SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITIZENSHIP.

Section 1015 of title 18, United States Code, is amended—

(1) by striking the dash at the end of subsection (f) and inserting "; or"; and
(2) by inserting after subsection (f) the following:

"(g) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to enter into, or remain in, the United States—".

SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF THE DEPARTMENT OF STATE.

(a) LIMITATION.—Notwithstanding any other provision of law, the Secretary of State shall ensure, subject to subsection (b), that the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) is carried out primarily to provide training to host nation security services for the specific purpose of ensuring the physical security and safety of United States Government facilities and personnel abroad (as well as foreign dignitaries and training related to the protection of such dignitaries), including security detail training and offenses related to passport or visa fraud.

(b) EXCEPTION.—The limitation contained in subsection (a) shall not apply, and the Secretary of State may expand the ATA program to include other types of antiterrorism assistance training, if the Secretary first consults with the Attorney General and provides written notification of such proposed expansion to the appropriate congressional committees.

(c) DEFINITION.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on International Relations and the Committee on the Judiciary of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL THROUGH THE USE OF FRAUDULENTLY OBTAINED DOCUMENTS.

(a) FINDINGS.—Congress finds the following:

(1) International terrorists travel across international borders to raise funds, recruit members, train for operations, escape capture, communicate, and plan and carry out attacks.

(2) The international terrorists who planned and carried out the attack on the World Trade Center on February 26, 1993, the attack on the embassies of the United States in Kenya and Tanzania on August 7, 1998, the attack on the USS Cole on October 12, 2000, and the attack on the World Trade Center and the Pentagon on September 11, 2001, traveled across international borders to plan and carry out these attacks.

(3) The international terrorists who planned other attacks on the United States, including the plot to bomb New York City landmarks in 1993, the plot to bomb the New York City subway in 1997, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled across international borders to plan and carry out these attacks.

(4) Many of the international terrorists who planned and carried out large-scale attacks against foreign targets, including the attack in Bali, Indonesia, on October 11, 2002, and the attack in Madrid, Spain, on March 11, 2004, traveled across international borders to plan and carry out these attacks.

(5) Throughout the 1990s, international terrorists, including those involved in the attack on the World Trade Center on February 26, 1993, the plot to bomb New York City landmarks in 1993, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled on fraudulent passports and often had more than one passport.

(6) Two of the September 11, 2001, hijackers were carrying passports that had been manipulated in a fraudulent manner and several other hijackers whose passports did not survive the attacks on the World Trade Center and Pentagon were likely to have carried passports that were similarly manipulated.

(7) The National Commission on Terrorist Attacks upon the United States, (commonly referred to as the 9/11 Commission), stated that "Targeting travel is at least as powerful a weapon against terrorists as targeting their money.".

(b) INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL.—

(1) INTERNATIONAL AGREEMENT ON LOST, STOLEN, OR FALSIFIED DOCUMENTS.—The President shall lead efforts to track and curtail the travel of terrorists by supporting the drafting, adoption, and implementation of international agreements, and by supporting the expansion of existing international agreements, to track and stop international travel by terrorists and other criminals through the use of lost, stolen, or falsified documents to augment existing United Nations and other international anti-terrorism efforts.

(2) CONTENTS OF INTERNATIONAL AGREEMENT.—The President shall seek, in the appropriate fora, the drafting, adoption, and implementation of an effective international agreement requiring—

(A) the establishment of a system to share information on lost, stolen, and fraudulent passports and other travel documents for the purposes of preventing the undetected travel of persons using such passports and other travel documents that were obtained improperly;

(B) the establishment and implementation of a real-time verification system of passports and other travel documents with issuing authorities;

(C) the assumption of an obligation by countries that are parties to the agreement to share with officials at ports of entry in any such country information relating to lost, stolen, and fraudulent passports and other travel documents;

(D) the assumption of an obligation by countries that are parties to the agreement—

(i) to criminalize—

(I) the falsification or counterfeiting of travel documents or breeder documents for any purpose;

(II) the use or attempted use of false documents to obtain a visa or cross a border for any purpose;

(III) the possession of tools or implements used to falsify or counterfeit such documents;

(IV) the trafficking in false or stolen travel documents and breeder documents for any purpose;

(V) the facilitation of travel by a terrorist; and

(VI) attempts to commit, including conspiracies to commit, the crimes specified above;

(ii) to impose significant penalties so as to appropriately punish violations and effectively deter these crimes; and

(iii) to limit the issuance of citizenship papers, passports, identification documents, and the like to persons whose identity is proven to the issuing authority, who have a bona fide entitlement to or need for such documents, and who are not issued such documents principally on account of a disproportional payment made by them or on their behalf to the issuing authority;

(E) the provision of technical assistance to State Parties to help them meet their obligations under the convention;

(F) the establishment and implementation of a system of self-assessments and peer reviews to examine the degree of compliance with the convention; and

(G) an agreement that would permit immigration and border officials to confiscate a lost, stolen, or falsified passport at ports of entry and permit the traveler to return to the sending country without being in possession of the lost, stolen, or falsified passport, and for the detention and investigation of such traveler upon the return of the traveler to the sending country.

(3) INTERNATIONAL CIVIL AVIATION ORGANIZATION.—The United States shall lead efforts to track and curtail the travel of terrorists by supporting efforts at the International Civil Aviation Organization to continue to strengthen the security features of passports and other travel documents.

(c) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and at least annually thereafter, the President shall submit to the appropriate congressional committees a report on progress toward achieving the goals described in subsection (b).

(2) TERMINATION.—Paragraph (1) shall cease to be effective when the President certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the goals described in subsection (b) have been fully achieved.

SEC. 3089. INTERNATIONAL STANDARDS FOR TRANSLATION OF NAMES INTO THE ROMAN ALPHABET FOR INTERNATIONAL TRAVEL DOCUMENTS AND NAME-BASED WATCHLIST SYSTEMS.

(a) FINDINGS.—Congress finds that—

(1) the current lack of a single convention for translating Arabic names enabled some of the 19 hijackers of aircraft used in the terrorist attacks against the United States that occurred on September 11, 2001, to vary the spelling of their names to defeat name-based terrorist watchlist systems and to make more difficult any potential efforts to locate them; and

(2) although the development and utilization of terrorist watchlist systems using biometric identifiers will be helpful, the full development and utilization of such systems will take several years, and name-based terrorist watchlist systems will always be useful.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should seek to enter into an international agreement to modernize and improve standards for the translation of names into the Roman alphabet in order to ensure one common spelling for such names for international travel documents and name-based watchlist systems.

SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system required by applicable sections of—

(A) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(B) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(C) the Visa Waiver Permanent Program Act (Public Law 106–396);

(D) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(E) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107–56).

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the automated entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the entry and exit data system; and

(D) a description of plans for improved or added interoperability with any other databases or data systems.

(c) INTEGRATION REQUIREMENT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall integrate the biometric entry and exit data system with all databases and data systems maintained by the United States Citizenship and Immigration Services that process or contain information on aliens.

(d) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) IN GENERAL.—The Secretary, in consultation with other appropriate agencies, shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system, and databases and data systems linked to the entry and exit data system, that ensure the accuracy and integrity of the data.

(2) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under paragraph (1) shall—

(A) incorporate a simple and timely method for—

(i) correcting errors; and

(ii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to seek corrections of data contained in the data systems.

(e) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(A) expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority; and

(B) the process of expediting known travelers across the border can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—The term "registered traveler program" means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PLAN.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a plan to expedite the processing of registered travelers who enter and exit the United States through a single registered traveler program.

(B) INTEGRATION.—The registered traveler program developed under this paragraph shall be integrated into the automated biometric entry and exit data system described in this section.

(C) REVIEW AND EVALUATION.—In developing the program under this paragraph, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs; and

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program.

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the Department's progress on the development and implementation of the plan required by this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. 3091. ENHANCED RESPONSIBILITIES OF THE COORDINATOR FOR COUNTERTERRORISM.

(a) DECLARATION OF UNITED STATES POLICY.—Congress declares that it shall be the policy of the United States to—

(1) make combating terrorist travel and those who assist them a priority for the United States counterterrorism policy; and

(2) ensure that the information relating to individuals who help facilitate terrorist travel by creating false passports, visas, documents used to obtain such travel documents, and other documents are fully shared within the United States Government and, to the extent possible, with and from foreign governments, in order to initiate United States and foreign prosecutions of such individuals.

(b) AMENDMENT.—Section 1(e)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2)) is amended by adding at the end the following:

"(C) ADDITIONAL DUTIES RELATING TO TERRORIST TRAVEL.—In addition to the principal duties of the Coordinator described in subparagraph (B), the Coordinator shall analyze methods used by terrorists to travel internationally, develop policies with respect to curtailing terrorist travel, and coordinate such policies with the appropriate bureaus and other entities of the Department of State, other United States Government agencies, the Human Trafficking and Smuggling Center, and foreign governments.".

SEC. 3092. ESTABLISHMENT OF OFFICE OF VISA AND PASSPORT SECURITY IN THE DEPARTMENT OF STATE.

(a) ESTABLISHMENT.—There is established within the Bureau of Diplomatic Security of the Department of State an Office of Visa and Passport Security (in this section referred to as the "Office").

(b) HEAD OF OFFICE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the head of the Office shall be an individual who shall have the rank and status of Deputy Assistant Secretary of State for Diplomatic Security (in this section referred to as the "Deputy Assistant Secretary").

(2) RECRUITMENT.—The Under Secretary of State for Management shall chose the Deputy Assistant Secretary from among individuals who are Diplomatic Security Agents.

(3) QUALIFICATIONS.—The Diplomatic Security Agent chosen to serve as the Deputy Assistant Secretary shall have expertise and experience in investigating and prosecuting visa and passport fraud.

(c) DUTIES.—

(1) PREPARATION OF STRATEGIC PLAN.—

(A) IN GENERAL.—The Deputy Assistant Secretary, in coordination with the appropriate officials of the Department of Homeland Security, shall ensure the preparation of a strategic plan to target and disrupt individuals and organizations at home and in foreign countries that are involved in the fraudulent production, distribution, use, or other similar activity—

(i) of a United States visa or United States passport;

(ii) of documents intended to help fraudulently procure a United States visa or United States passport, or other documents intended to gain unlawful entry into the United States; or

(iii) of passports and visas issued by foreign countries intended to gain unlawful entry into the United States.

(B) EMPHASIS.—Such plan shall—

(i) focus particular emphasis on individuals and organizations that may have links to domestic terrorist organizations or foreign terrorist organizations (as such term is defined in Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189));

(ii) require the development of a strategic training course under the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) to train participants in the identification of fraudulent documents and the forensic detection of such documents which may be used to obtain unlawful entry into the United States; and

(iii) determine the benefits and costs of providing technical assistance to foreign governments to ensure the security of passports, visas, and related documents and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents to obtain such passports and visas, and other types of travel documents.

(2) DUTIES OF OFFICE.—The Office shall have the following duties:

(A) ANALYSIS OF METHODS.—Analyze methods used by terrorists to travel internationally, particularly the use of false or altered travel documents to illegally enter foreign countries and the United States, and advise the Bureau of Consular Affairs on changes to the visa issuance process that could combat such methods, including the introduction of new technologies into such process.

(B) IDENTIFICATION OF INDIVIDUALS AND DOCUMENTS.—Identify, in cooperation with the Human Trafficking and Smuggling Center, individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents, and ensure that the appropriate agency is notified for further investigation and prosecution or, in the case of such individuals abroad for which no further investigation or prosecution is initiated, ensure that all appropriate information is shared with foreign governments in order to facilitate investigation, arrest, and prosecution of such individuals.

(C) IDENTIFICATION OF FOREIGN COUNTRIES NEEDING ASSISTANCE.—Identify foreign countries that need technical assistance, such as law reform, administrative reform, prosecutorial training, or assistance to police and other investigative services, to ensure passport, visa, and related document security and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents.

(D) INSPECTION OF APPLICATIONS.—Randomly inspect visa and passport applications for accuracy, efficiency, and fraud, especially at high terrorist threat posts, in order to prevent a recurrence of the issuance of visas to those who submit incomplete, fraudulent, or otherwise irregular or incomplete applications.

(3) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Deputy Assistant Secretary shall submit to Congress a report containing—

(A) a description of the strategic plan prepared under paragraph (1); and

(B) an evaluation of the feasibility of establishing civil service positions in field offices of the Bureau of Diplomatic Security to investigate visa and

passport fraud, including an evaluation of whether to allow diplomatic security agents to convert to civil service officers to fill such positions.

Subtitle D—Terrorist Travel

SEC. 3101. INFORMATION SHARING AND COORDINATION.

The Secretary of Homeland Security shall establish a mechanism to—

(1) ensure the coordination and dissemination of terrorist travel intelligence and operational information among the appropriate agencies within the Department of Homeland Security, including the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, the Bureau of Citizenship and Immigration Services, the Transportation Security Administration, the Coast Guard, and other agencies as directed by the Secretary; and

(2) ensure the sharing of terrorist travel intelligence and operational information with the Department of State, the National Counterterrorism Center, and other appropriate Federal agencies.

SEC. 3102. TERRORIST TRAVEL PROGRAM.

The Secretary of Homeland Security, in consultation with the Director of the National Counterterrorism Center, shall establish a program to—

(1) analyze and utilize information and intelligence regarding terrorist travel tactics, patterns, trends, and practices; and

(2) disseminate that information to all front-line Department of Homeland Security personnel who are at ports of entry or between ports of entry, to immigration benefits offices, and, in coordination with the Secretary of State, to appropriate individuals at United States embassies and consulates.

SEC. 3103. TRAINING PROGRAM.

(a) REVIEW, EVALUATION, AND REVISION OF EXISTING TRAINING PROGRAMS.—The Secretary of Homeland Security shall—

(1) review and evaluate the training currently provided to Department of Homeland Security personnel and, in consultation with the Secretary of State, relevant Department of State personnel with respect to travel and identity documents, and techniques, patterns, and trends associated with terrorist travel; and

(2) develop and implement a revised training program for border, immigration, and consular officials in order to teach such officials how to effectively detect, intercept, and disrupt terrorist travel.

(b) REQUIRED TOPICS OF REVISED PROGRAMS.—The training program developed under subsection (a)(2) shall include training in the following areas:

(1) Methods for identifying fraudulent and genuine travel documents.

(2) Methods for detecting terrorist indicators on travel documents and other relevant identity documents.

(3) Recognizing travel patterns, tactics, and behaviors exhibited by terrorists.

(4) Effectively utilizing information contained in databases and data systems available to the Department of Homeland Security.

(5) Other topics determined to be appropriate by the Secretary of Homeland Security in consultation with the Secretary of State or the National Intelligence Director.

SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.

(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to the Congress a plan to ensure that the Department of Homeland Security and the Department of State acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.

(b) INTEROPERABILITY REQUIREMENT.—To the extent possible, technologies to be acquired and deployed under the plan shall be compatible with current systems used by the Department of Homeland Security to detect and identify fraudulent documents and genuine documents.

(c) PASSPORT SCREENING.—The plan shall address the feasibility of using such technologies to screen passports submitted for identification purposes to a United States consular, border, or immigration official.

Subtitle E—Maritime Security Requirements

SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARITIME SECURITY REQUIREMENTS.

(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.—Section 70103(a) of the 46, United States Code, is amended by striking "The Secretary" and inserting "Not later than December 31, 2004, the Secretary".

(b) FACILITY AND VESSEL VULNERABILITY ASSESSMENTS.—Section 70102(b)(1) of the 46, United States Code, is amended by striking ", the Secretary" and inserting "and by not later than December 31, 2004, the Secretary".

(c) TRANSPORTATION SECURITY CARD REGULATIONS.—Section 70105(a) of the 46, United States Code, is amended by striking "The Secretary" and inserting "Not later than December 31, 2004, the Secretary".

TITLE IV—INTERNATIONAL COOPERATION AND COORDINATION

Subtitle A—Attack Terrorists and Their Organizations

CHAPTER 1—PROVISIONS RELATING TO TERRORIST SANCTUARIES

SEC. 4001. UNITED STATES POLICY ON TERRORIST SANCTUARIES.

It is the sense of Congress that it should be the policy of the United States—

(1) to identify and prioritize foreign countries that are or that could be used as terrorist sanctuaries;

(2) to assess current United States resources being provided to such foreign countries;

(3) to develop and implement a coordinated strategy to prevent terrorists from using such foreign countries as sanctuaries; and

(4) to work in bilateral and multilateral fora to prevent foreign countries from being used as terrorist sanctuaries.

SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.

(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to Congress a report that describes a strategy for addressing and, where possible, eliminating terrorist sanctuaries.

(2) CONTENT.—The report required under this subsection shall include the following:

(A) A list that prioritizes each actual and potential terrorist sanctuary and a description of activities in the actual and potential sanctuaries.

(B) An outline of strategies for preventing the use of, disrupting, or ending the use of such sanctuaries.

(C) A detailed description of efforts, including an assessment of successes and setbacks, by the United States to work with other countries in bilateral and multilateral fora to address or eliminate each actual or potential terrorist sanctuary and disrupt or eliminate the security provided to terrorists by each such sanctuary.

(D) A description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries.

(b) SUBSEQUENT REPORTS.—

(1) REQUIREMENT OF REPORTS.—Section 140(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)(1)) is amended—

(A) by striking "(1)" and inserting "(1)(A)";

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(C) in subparagraph (A)(iii) (as redesignated), by adding "and" at the end; and

(D) by adding at the end the following:

"(B) detailed assessments with respect to each foreign country whose territory is being used or could potentially be used as a sanctuary for terrorists or terrorist organizations;".

(2) PROVISIONS TO BE INCLUDED IN REPORT.—Section 140(b) of such Act (22 U.S.C. 2656f(b)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)"; and

(ii) by striking "and" at the end;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

"(2) with respect to subsection (a)(1)(B)—

"(A) the extent of knowledge by the government of the country with respect to terrorist activities in the territory of the country; and

"(B) the actions by the country—

"(i) to eliminate each terrorist sanctuary in the territory of the country;

"(ii) to cooperate with United States antiterrorism efforts; and

"(iii) to prevent the proliferation of and trafficking in weapons of mass destruction in and through the territory of the country;";

(D) by striking the period at the end of paragraph (3) (as redesignated) and inserting a semicolon; and

(E) by inserting after paragraph (3) (as redesignated) the following:

"(4) a strategy for addressing and, where possible, eliminating terrorist sanctuaries that shall include—

"(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

"(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

"(C) a description of efforts by the United States to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

"(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries;

"(5) an update of the information contained in the report required to be transmitted to Congress pursuant to section 4002(a)(2) of the 9/11 Recommendations Implementation Act;

"(6) to the extent practicable, complete statistical information on the number of individuals, including United States citizens and dual nationals, killed, injured, or kidnapped by each terrorist group during the preceding calendar year; and

"(7) an analysis, as appropriate, relating to trends in international terrorism, including changes in technology used, methods and targets of attacks, demographic information on terrorists, and other appropriate information.".

(3) DEFINITIONS.—Section 140(d) of such Act (22 U.S.C. 2656f(d)) is amended—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(4) the term 'territory' and 'territory of the country' means the land, waters, and airspace of the country; and

"(5) the term 'terrorist sanctuary' or 'sanctuary' means an area in the territory of a country that is used by a terrorist group with the express or implied consent of the government of the country—

"(A) to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or

"(B) to provide transit through the country.".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, by April 30, 2006, and by April 30 of each subsequent year.

SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE TERRORIST SANCTUARIES.

(a) AMENDMENTS.—Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

"(B) Any part of the territory of the country is being used as a sanctuary for terrorists or terrorist organizations.";

(2) in paragraph (3), by striking "paragraph (1)(A)" and inserting "subparagraph (A) or (B) of paragraph (1)";

(3) by redesignating paragraph (5) as paragraph (6);

(4) by inserting after paragraph (4) the following:

"(5) A determination made by the Secretary of State under paragraph (1)(B) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate before the proposed rescission would take effect a report certifying that the government of the country concerned —

"(A) is taking concrete, verifiable steps to eliminate each terrorist sanctuary in the territory of the country;

"(B) is cooperating with United States antiterrorism efforts; and

"(C) is taking all appropriate actions to prevent the proliferation of and trafficking in weapons of mass destruction in and through the territory of the country."; and

(5) by inserting after paragraph (6) (as redesignated) the following:

"(7) In this subsection—

"(A) the term 'territory of the country' means the land, waters, and airspace of the country; and

"(B) the term 'terrorist sanctuary' or 'sanctuary' means an area in the territory of a country that is used by a terrorist group with the express or implied consent of the government of the country—

"(i) to carry out terrorist activities, including training, fundraising, financing, recruitment, and education activities; or

"(ii) to provide transit through the country.".

(b) IMPLEMENTATION.—The President shall implement the amendments made by subsection (a) by exercising the authorities the President has under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

CHAPTER 2—OTHER PROVISIONS

SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS CONTROL AND NONPROLIFERATION ADVISORY BOARD.

(a) REQUIREMENT.—Not later than December 31, 2004, the Secretary of State shall appoint individuals to the Arms Control and Nonproliferation Advisory Board to fill all vacancies in the membership of the Board that exist on the date of the enactment of this Act.

(b) CONSULTATION.—Appointments to the Board under subsection (a) shall be made in consultation with the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 4012. REVIEW OF UNITED STATES POLICY ON PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND CONTROL OF STRATEGIC WEAPONS.

(a) REVIEW.—

(1) IN GENERAL.—The Undersecretary of State for Arms Control and International Security shall instruct the Arms Control and Nonproliferation Advisory Board (in this section referred to as the "Advisory Board") to carry out a review of existing policies of the United States relating to the proliferation of weapons of mass destruction and the control of strategic weapons.

(2) COMPONENTS.—The review required under this subsection shall contain at a minimum the following:

(A) An identification of all major deficiencies in existing United States policies relating to the proliferation of weapons of mass destruction and the control of strategic weapons.

(B) Proposals that contain a range of options that if implemented would adequately address any significant threat deriving from the deficiencies in existing United States policies described in subparagraph (A).

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than June 15, 2005, the Advisory Board shall prepare and submit to the Undersecretary of State for Arms Control and International Security an interim report that contains the initial results of the review carried out pursuant to subsection (a).

(2) FINAL REPORT.—Not later than December 1, 2005, the Advisory Board shall prepare and submit to the Undersecretary of State for Arms Control and International Security, and to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, a final report that contains the comprehensive results of the review carried out pursuant to subsection (a).

(c) EXPERTS AND CONSULTANTS.— In carrying out this section, the Advisory Board may procure temporary and intermittent services of experts and consultants, including experts and consultants from nongovernmental organizations, under section 3109(b) of title 5, United States Code.

(d) FUNDING AND OTHER RESOURCES.—The Secretary of State shall provide to the Advisory Board an appropriate amount of funding and other resources to enable the Advisory Board to carry out this section.

SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT ACTS OF INTERNATIONAL TERRORISM.

Section 1(e)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2)), as amended by section 3091(b), is further amended by adding at the end the following:

"(D) ADDITIONAL DUTIES RELATING TO INTERNATIONAL AGREEMENTS TO INTERDICT ACTS OF INTERNATIONAL TERRORISM.—

"(i) IN GENERAL.—In addition to the principal duties of the Coordinator described in subparagraph (B), the Coordinator, in consultation with relevant United States Government agencies, shall seek to negotiate on a bilateral basis international agreements under which parties to an agreement work in partnership to address and interdict acts of international terrorism.

"(ii) TERMS OF INTERNATIONAL AGREEMENT.—It is the sense of Congress that—

"(I) each party to an international agreement referred to in clause (i)—

"(aa) should be in full compliance with United Nations Security Council Resolution 1373 (September 28, 2001), other appropriate international agreements relating to antiterrorism measures, and such other appropriate criteria relating to antiterrorism measures;

"(bb) should sign and adhere to a 'Counterterrorism Pledge' and a list of 'Interdiction Principles', to be determined by the parties to the agreement;

"(cc) should identify assets and agree to multilateral efforts that maximizes the country's strengths and resources to address and interdict acts of international terrorism or the financing of such acts;

"(dd) should agree to joint training exercises among the other parties to the agreement; and

"(ee) should agree to the negotiation and implementation of other relevant international agreements and consensus-based international standards; and

"(II) an international agreement referred to in clause (i) should contain provisions that require the parties to the agreement—

"(aa) to identify regions throughout the world that are emerging terrorist threats;

"(bb) to establish terrorism interdiction centers in such regions and other regions, as appropriate;

"(cc) to deploy terrorism prevention teams to such regions, including United States-led teams; and

"(dd) to integrate intelligence, military, and law enforcement personnel from countries that are parties to the agreement in order to work directly with the regional centers described in item (bb) and regional teams described in item (cc).".

SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.

It is the sense of Congress that the President should pursue by all appropriate diplomatic means with countries that are participating in the Coalition to fight terrorism the development of an effective approach toward the detention and humane treatment of captured terrorists. The effective approach referred to in this section may, as appropriate, draw on Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva on August 12, 1949 (6 UST 3316).

SEC. 4015. SENSE OF CONGRESS AND REPORT REGARDING COUNTER-DRUG EFFORTS IN AFGHANISTAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should make the substantial reduction of illegal drug production and trafficking in Afghanistan a priority in the Global War on Terrorism;

(2) the Secretary of Defense, in coordination with the Secretary of State and the heads of other appropriate Federal agencies, should expand cooperation with the Government of Afghanistan and international organizations involved in counter-drug activities to assist in providing a secure environment for counter-drug personnel in Afghanistan; and

(3) the United States, in conjunction with the Government of Afghanistan and coalition partners, should undertake additional efforts to reduce illegal drug trafficking and related activities that provide financial support for terrorist organizations in Afghanistan and neighboring countries.

(b) REPORT REQUIRED.—(1) The Secretary of Defense and the Secretary of State shall jointly prepare a report that describes—

(A) the progress made towards substantially reducing poppy cultivation and heroin production capabilities in Afghanistan; and

(B) the extent to which profits from illegal drug activity in Afghanistan are used to financially support terrorist organizations and groups seeking to undermine the Government of Afghanistan.

(2) The report required by this subsection shall be submitted to Congress not later than 120 days after the date of the enactment of this Act.

Subtitle B—Prevent the Continued Growth of Terrorism

CHAPTER 1—UNITED STATES PUBLIC DIPLOMACY

SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC DIPLOMACY STRATEGY.

(a) IN GENERAL.—The Secretary of State, in coordination with all appropriate Federal agencies, shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate an annual assessment of the impact of public diplomacy efforts on target audiences. Each assessment shall review the United States public diplomacy strategy worldwide and by region, including an examination of the allocation of resources and an evaluation and assessment of the progress in, and barriers to, achieving the goals set forth under previous plans submitted under this section. Not later than March 15 of every year, the Secretary shall submit the assessment required by this subsection.

(b) FURTHER ACTION.— On the basis of such review, the Secretary, in coordination with all appropriate Federal agencies, shall submit, as part of the annual budget submission, a public diplomacy strategy plan which specifies goals, agency responsibilities, and necessary resources and mechanisms for achieving such goals during the next fiscal year. The plan may be submitted in classified form.

SEC. 4022. PUBLIC DIPLOMACY TRAINING.

(a) STATEMENT OF POLICY.—It should be the policy of the United States:

(1) The Foreign Service should recruit individuals with expertise and professional experience in public diplomacy.

(2) United States chiefs of mission should have a prominent role in the formulation of public diplomacy strategies for the countries and regions to which they are assigned and should be accountable for the operation and success of public diplomacy efforts at their posts.

(3) Initial and subsequent training of Foreign Service officers should be enhanced to include information and training on public diplomacy and the tools and technology of mass communication.

(b) PERSONNEL.—

(1) QUALIFICATIONS.—In the recruitment, training, and assignment of members of the Foreign Service, the Secretary of State shall emphasize the importance of public diplomacy and applicable skills and techniques. The Secretary shall consider the priority recruitment into the Foreign Service, at middle-level entry, of individuals with expertise and professional experience in public diplomacy, mass communications, or journalism. The Secretary shall give special consideration to individuals with language facility and experience in particular countries and regions.

(2) LANGUAGES OF SPECIAL INTEREST.—The Secretary of State shall seek to increase the number of Foreign Service officers proficient in languages spoken in predominantly Muslim countries. Such increase shall be accomplished through the recruitment of new officers and incentives for officers in service.

SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUSLIM COUNTRIES.

(a) DECLARATION OF POLICY.—Congress declares that the United States should commit to a long-term and sustainable investment in promoting engagement with people of all levels of society in countries with predominantly Muslim populations, particularly with youth and those who influence youth. Such an investment should make use of the talents and resources in the private sector and should include programs to increase the number of people who can be exposed to the United States and its fundamental ideas and values in order to dispel misconceptions. Such programs should include youth exchange programs, young ambassadors programs, international visitor programs, academic and cultural exchange programs, American Corner programs, library programs, journalist exchange programs, sister city programs, and other programs related to people-to-people diplomacy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should significantly increase its investment in the people-to-people programs described in subsection (a).

SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PROMOTION IN FOREIGN SERVICE.

(a) IN GENERAL.—Section 603(b) of the Foreign Service Act of 1980 (22 U.S.C. 4003(b)) is amended by adding at the end the following new sentences: "The precepts for such selection boards shall also consider whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has served in at least one position in which the primary responsibility of such member was related to public diplomacy. A member may not be promoted into or within the Senior Foreign Service if such member has not served in at least one such position.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2009.

CHAPTER 2—UNITED STATES MULTILATERAL DIPLOMACY

SEC. 4031. PURPOSE.

It is the purpose of this chapter to strengthen United States leadership and effectiveness at international organizations and multilateral institutions.

SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY CAUCUS.

(a) IN GENERAL.—The President, acting through the Secretary of State and the relevant United States chiefs of mission, shall—

(1) continue to strongly support and seek to expand the work of the democracy caucus at the United Nations General Assembly and the United Nations Human Rights Commission; and

(2) seek to establish a democracy caucus at the United Nations Conference on Disarmament and at other broad-based international organizations.

(b) PURPOSES OF THE CAUCUS.—A democracy caucus at an international organization should—

(1) forge common positions, including, as appropriate, at the ministerial level, on matters of concern before the organization and work within and across regional lines to promote agreed positions;

(2) work to revise an increasingly outmoded system of membership selection, regional voting, and decision making; and

(3) establish a rotational leadership agreement to provide member countries an opportunity, for a set period of time, to serve as the designated president of the caucus, responsible for serving as its voice in each organization.

SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS.

(a) UNITED STATES POLICY.—The President, acting through the Secretary of State and the relevant United States chiefs of mission, shall use the voice, vote, and influence of the United States to—

(1) where appropriate, reform the criteria for leadership and, in appropriate cases, for membership, at all United Nations bodies and at other international organizations and multilateral institutions to which the United States is a member so as to exclude countries that violate the principles of the specific organization;

(2) make it a policy of the United Nations and other international organizations and multilateral institutions of which the United States is a member that a member country may not stand in nomination for membership or in nomination or in rotation for a leadership position in such bodies if the member country is subject to sanctions imposed by the United Nations Security Council; and

(3) work to ensure that no member country stand in nomination for membership, or in nomination or in rotation for a leadership position in such organizations, or for membership on the United Nations Security Council, if the member country is subject to a determination under section 6(j)(1)(A) of the Export Ad-

ministration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

(b) REPORT TO CONGRESS.—Not later than 15 days after a country subject to a determination under one or more of the provisions of law specified in subsection (a)(3) is selected for membership or a leadership post in an international organization of which the United States is a member or for membership on the United Nations Security Council, the Secretary of State shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on any steps taken pursuant to subsection (a)(3).

SEC. 4034. INCREASED TRAINING IN MULTILATERAL DIPLOMACY.

(a) TRAINING PROGRAMS.—Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended by adding at the end the following new subsection:

"(c) TRAINING IN MULTILATERAL DIPLOMACY.—

"(1) IN GENERAL.—The Secretary shall establish a series of training courses for officers of the Service, including appropriate chiefs of mission, on the conduct of diplomacy at international organizations and other multilateral institutions and at broad-based multilateral negotiations of international instruments.

"(2) PARTICULAR PROGRAMS.—The Secretary shall ensure that the training described in paragraph (1) is provided at various stages of the career of members of the service. In particular, the Secretary shall ensure that after January 1, 2006—

"(A) officers of the Service receive training on the conduct of diplomacy at international organizations and other multilateral institutions and at broad-based multilateral negotiations of international instruments as part of their training upon entry into the Service; and

"(B) officers of the Service, including chiefs of mission, who are assigned to United States missions representing the United States to international organizations and other multilateral institutions or who are assigned in Washington, D.C., to positions that have as their primary responsibility formulation of policy towards such organizations and institutions or towards participation in broad-based multilateral negotiations of international instruments, receive specialized training in the areas described in paragraph (1) prior to beginning of service for such assignment or, if receiving such training at that time is not practical, within the first year of beginning such assignment.".

(b) TRAINING FOR CIVIL SERVICE EMPLOYEES.—The Secretary shall ensure that employees of the Department of State who are members of the civil service and who are assigned to positions described in section 708(c) of the Foreign Service Act of 1980 (as amended by subsection (a)) receive training described in such section.

(c) CONFORMING AMENDMENTS.—Section 708 of such Act is further amended—

(1) in subsection (a), by striking "(a) The" and inserting "(a) TRAINING ON HUMAN RIGHTS.—The"; and

(2) in subsection (b), by striking "(b) The" and inserting "(b) TRAINING ON REFUGEE LAW AND RELIGIOUS PERSECUTION.—The".

SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF OFFICE ON MULTILATERAL NEGOTIATIONS.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of State is authorized to establish, within the Bureau of International Organizational Affairs, an Office on Multilateral Negotiations to be headed by a Special Representative for Multilateral Negotiations (in this section referred to as the "Special Representative").

(b) APPOINTMENT.—The Special Representative shall be appointed by the President and shall have the rank of Ambassador-at-Large. At the discretion of the President another official at the Department may serve as the Special Representative.

(c) STAFFING.—The Special Representative shall have a staff of Foreign Service and civil service officers skilled in multilateral diplomacy.

(d) DUTIES.—The Special Representative shall have the following responsibilities:

(1) IN GENERAL.—The primary responsibility of the Special Representative shall be to assist in the organization of, and preparation for, United States participation in multilateral negotiations, including advocacy efforts undertaken by the Department of State and other United States Government agencies.

(2) CONSULTATIONS.—The Special Representative shall consult with Congress, international organizations, nongovernmental organizations, and the private sector on matters affecting multilateral negotiations.

(3) ADVISORY ROLE.—The Special Representative shall advise the Assistant Secretary for International Organizational Affairs and, as appropriate, the Sec-

retary of State, regarding advocacy at international organizations, multilateral institutions, and negotiations, and shall make recommendations regarding—

(A) effective strategies (and tactics) to achieve United States policy objectives at multilateral negotiations;

(B) the need for and timing of high level intervention by the President, the Secretary of State, the Deputy Secretary of State, and other United States officials to secure support from key foreign government officials for United States positions at such organizations, institutions, and negotiations; and

(C) the composition of United States delegations to multilateral negotiations.

(4) ANNUAL DIPLOMATIC MISSIONS OF MULTILATERAL ISSUES.—The Special Representative, in coordination with the Assistant Secretary for International Organizational Affairs, shall organize annual diplomatic missions to appropriate foreign countries to conduct consultations between principal officers responsible for advising the Secretary of State on international organizations and high-level representatives of the governments of such foreign countries to promote the United States agenda at the United Nations General Assembly and other key international fora (such as the United Nations Human Rights Commission).

(5) LEADERSHIP AND MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS.—The Special Representative, in coordination with the Assistant Secretary of International Organizational Affairs, shall direct the efforts of the United States to reform the criteria for leadership of and membership in international organizations as described in section 4033.

(6) PARTICIPATION IN MULTILATERAL NEGOTIATIONS.—The Secretary of State may direct the Special Representative to serve as a member of a United States delegation to any multilateral negotiation.

CHAPTER 3—OTHER PROVISIONS

SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO AMERICAN-SPONSORED SCHOOLS IN PREDOMINANTLY MUSLIM COUNTRIES TO PROVIDE SCHOLARSHIPS.

(a) FINDINGS.—Congress finds the following:

(1) During the 2003–2004 school year, the Office of Overseas Schools of the Department of State is financially assisting 189 elementary and secondary schools in foreign countries.

(2) American-sponsored elementary and secondary schools are located in more than 20 countries with significant Muslim populations in the Near East, Africa, South Asia, Central Asia, and East Asia.

(3) American-sponsored elementary and secondary schools provide an American-style education in English, with curricula that typically include an emphasis on the development of critical thinking and analytical skills.

(b) PURPOSE.—The United States has an interest in increasing the level of financial support provided to American-sponsored elementary and secondary schools in predominantly Muslim countries, in order to—

(1) increase the number of students in such countries who attend such schools;

(2) increase the number of young people who may thereby gain at any early age an appreciation for the culture, society, and history of the United States; and

(3) increase the number of young people who may thereby improve their proficiency in the English language.

(c) PILOT PROGRAM AUTHORIZED.—The Secretary of State, acting through the Director of the Office of Overseas Schools of the Department of State, may conduct a pilot program to make grants to American-sponsored elementary and secondary schools in predominantly Muslim countries for the purpose of providing full or partial merit-based scholarships to students from lower- and middle-income families of such countries to attend such schools.

(d) DETERMINATION OF ELIGIBLE STUDENTS.—For purposes of expending grant funds, an American-sponsored elementary and secondary school that receives a grant under subsection (c) is authorized to establish criteria to be implemented by such school to determine what constitutes lower- and middle-income families in the country (or region of the country, if regional variations in income levels in the country are significant) in which such school is located.

(e) RESTRICTION ON USE OF FUNDS.—Amounts appropriated to the Secretary of State pursuant to the authorization of appropriations in subsection (h) shall be used for the sole purpose of making grants under this section, and may not be used for the administration of the Office of Overseas Schools of the Department of State or for any other activity of the Office.

(f) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed to require participation in the pilot program by an American-sponsored elementary or secondary school in a predominantly Muslim country.

(g) REPORT.—Not later than April 15, 2006, the Secretary shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the pilot program. The report shall assess the success of the program, examine any obstacles encountered in its implementation, and address whether it should be continued, and if so, provide recommendations to increase its effectiveness.

(h) FUNDING.—There are authorized to be appropriated to the Secretary of State such sums as may be necessary for each of fiscal years 2005, 2006, and 2007 to carry out this section.

SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.

(a) FINDINGS.—Congress makes the following findings:

(1) Freedom of speech and freedom of the press are fundamental human rights.

(2) The United States has a national interest in promoting these freedoms by supporting free media abroad, which is essential to the development of free and democratic societies consistent with our own.

(3) Free media is undermined, endangered, or nonexistent in many repressive and transitional societies around the world, including in Eurasia, Africa, and the Middle East.

(4) Individuals lacking access to a plurality of free media are vulnerable to misinformation and propaganda and are potentially more likely to adopt anti-American views.

(5) Foreign governments have a responsibility to actively and publicly discourage and rebut unprofessional and unethical media while respecting journalistic integrity and editorial independence.

(b) STATEMENTS OF POLICY.—It shall be the policy of the United States, acting through the Secretary of State, to—

(1) ensure that the promotion of press freedoms and free media worldwide is a priority of United States foreign policy and an integral component of United States public diplomacy;

(2) respect the journalistic integrity and editorial independence of free media worldwide; and

(3) ensure that widely accepted standards for professional and ethical journalistic and editorial practices are employed when assessing international media.

(c) GRANTS TO PRIVATE SECTOR GROUP TO ESTABLISH MEDIA NETWORK.—

(1) IN GENERAL.—Grants made available to the National Endowment for Democracy (NED) pursuant to paragraph (3) shall be used by NED to provide funding to a private sector group to establish and manage a free and independent media network in accordance with paragraph (2).

(2) PURPOSE.—The purpose of the network shall be to provide an effective forum to convene a broad range of individuals, organizations, and governmental participants involved in journalistic activities and the development of free and independent media to—

(A) fund a clearinghouse to collect and share information concerning international media development and training;

(B) improve research in the field of media assistance and program evaluation to better inform decisions regarding funding and program design for government and private donors;

(C) explore the most appropriate use of existing means to more effectively encourage the involvement of the private sector in the field of media assistance; and

(D) identify effective methods for the development of a free and independent media in societies in transition.

(3) FUNDING.—For grants made by the Department of State to NED as authorized by the National Endowment for Democracy Act (Pub. L. 98–164, 97 Stat. 1039), there are authorized to be appropriated to the Secretary of State such sums as may be necessary for each of fiscal years 2005, 2006, and 2007 to carry out this section.

SEC. 4043. COMBATING BIASED OR FALSE FOREIGN MEDIA COVERAGE OF THE UNITED STATES.

(a) FINDINGS.—Congress finds the following:

(1) Biased or false media coverage of the United States and its allies is a significant factor encouraging terrorist acts against the people of the United States.

(2) Public diplomacy efforts designed to encourage an accurate understanding of the people of the United States and the policies of the United States are unlikely to succeed if foreign publics are subjected to unrelenting biased or false local media coverage of the United States.

(3) Where freedom of the press exists in foreign countries the United States can combat biased or false media coverage by responding in the foreign media or by communicating directly to foreign publics in such countries.

(4) Foreign governments which encourage biased or false media coverage of the United States bear a significant degree of responsibility for creating a climate within which terrorism can flourish. Such governments are responsible for encouraging biased or false media coverage if they—

(A) issue direct or indirect instructions to the media to publish biased or false information regarding the United States;

(B) make deliberately biased or false charges expecting that such charges will be disseminated; or

(C) so severely constrain the ability of the media to express criticism of any such government that one of the few means of political expression available is criticism of the United States.

(b) STATEMENTS OF POLICY.—

(1) FOREIGN GOVERNMENTS.—It shall be the policy of the United States to regard foreign governments as knowingly engaged in unfriendly acts toward the United States if such governments—

(A) instruct their state-owned or influenced media to include content that is anti-American or prejudicial to the foreign and security policies of the United States; or

(B) make deliberately false charges regarding the United States or permit false or biased charges against the United States to be made while constraining normal political discourse.

(2) SEEKING MEDIA ACCESS; RESPONDING TO FALSE CHARGES.—It shall be the policy of the United States to—

(A) seek access to the media in foreign countries on terms no less favorable than those afforded any other foreign entity or on terms available to the foreign country in the United States; and

(B) combat biased or false media coverage in foreign countries of the United States and its allies by responding in the foreign media or by communicating directly to foreign publics.

(c) RESPONSIBILITIES REGARDING BIASED OR FALSE MEDIA COVERAGE.—

(1) SECRETARY OF STATE.—The Secretary of State shall instruct chiefs of mission to report on and combat biased or false media coverage originating in or received in foreign countries to which such chiefs are posted. Based on such reports and other information available to the Secretary, the Secretary shall prioritize efforts to combat such media coverage, giving special attention to audiences where fostering popular opposition to terrorism is most important and such media coverage is most prevalent.

(2) CHIEFS OF MISSION.—Chiefs of mission shall have the following responsibilities:

(A) Chiefs of mission shall give strong priority to combatting biased or false media reports in foreign countries to which such chiefs are posted regarding the United States.

(B) Chiefs of mission posted to foreign countries in which freedom of the press exists shall inform the governments of such countries of the policies of the United States regarding biased or false media coverage of the United States, and shall make strong efforts to persuade such governments to change policies that encourage such media coverage.

(d) REPORTS.—Not later than 120 days after the date of the enactment of this Act and at least annually thereafter until January 1, 2015, the Secretary shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report regarding the major themes of biased or false media coverage of the United States in foreign countries, the actions taken to persuade foreign governments to change policies that encourage such media coverage (and the results of such actions), and any other actions taken to combat such media coverage in foreign countries.

SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media.

(b) CONTENT.—The report required under subsection (a) shall contain the following:

(1) An assessment of the Broadcasting Board of Governors and the public diplomacy activities of the Department of State with respect to outreach to foreign Muslim audiences through broadcast media.

(2) An outline of recommended actions that the United States should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizeable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(3) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in Muslim countries in order to present those programs to a much broader Muslim audience than is currently reached.

(4) An assessment of providing a training program in media and press affairs for members of the Foreign Service.

SEC. 4045. OFFICE RELOCATION.

As soon as practicable after the date of the enactment of this Act, the Secretary of State shall take such actions as are necessary to consolidate within the Harry S. Truman Building all offices of the Department of State that are responsible for the conduct of public diplomacy, including the Bureau of Educational and Cultural Affairs.

SEC. 4046. STRENGTHENING THE COMMUNITY OF DEMOCRACIES FOR MUSLIM COUNTRIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States—

(1) should work with the Community of Democracies to discuss, develop, and refine policies and assistance programs to support and promote political, economic, judicial, educational, and social reforms in Muslim countries;

(2) should, as part of that effort, secure support to require countries seeking membership in the Community of Democracies to be in full compliance with the Community's criteria for participation, as established by the Community's Convening Group, should work to ensure that the criteria are part of a legally binding document, and should urge other donor countries to use compliance with the criteria as a basis for determining diplomatic and economic relations (including assistance programs) with such participating countries; and

(3) should seek support for international contributions to the Community of Democracies and should seek authority for the Community's Convening Group to oversee adherence and compliance of participating countries with the criteria.

(b) MIDDLE EAST PARTNERSHIP INITIATIVE AND BROADER MIDDLE EAST AND NORTH AFRICA INITIATIVE .—Amounts made available to carry out the Middle East Partnership Initiative and the Broader Middle East and North Africa Initiative may be made available to the Community of Democracies in order to strengthen and expand its work with Muslim countries.

(c) REPORT.—The Secretary of State shall include in the annual report entitled "Supporting Human Rights and Democracy: The U.S. Record" a description of efforts by the Community of Democracies to support and promote political, economic, judicial, educational, and social reforms in Muslim countries and the extent to which such countries meet the criteria for participation in the Community of Democracies.

Subtitle C—Reform of Designation of Foreign Terrorist Organizations

SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) PERIOD OF DESIGNATION.—Section 219(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "Subject to paragraphs (5) and (6), a" and inserting "A"; and

(B) by striking "for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B)" and inserting "until revoked under paragraph (5) or (6) or set aside pursuant to subsection (c)";

(2) by striking subparagraph (B) and inserting the following:

"(B) REVIEW OF DESIGNATION UPON PETITION.—

"(i) IN GENERAL.—The Secretary shall review the designation of a foreign terrorist organization under the procedures set forth in clauses

(iii) and (iv) if the designated organization files a petition for revocation within the petition period described in clause (ii).

"(ii) PETITION PERIOD.—For purposes of clause (i)—

"(I) if the designated organization has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

"(II) if the designated organization has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

"(iii) PROCEDURES.—Any foreign terrorist organization that submits a petition for revocation under this subparagraph must provide evidence in that petition that the relevant circumstances described in paragraph (1) have changed in such a manner as to warrant revocation with respect to the organization.

"(iv) DETERMINATION.—

"(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Secretary shall make a determination as to such revocation.

"(II) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

"(III) PUBLICATION OF DETERMINATION.—A determination made by the Secretary under this clause shall be published in the Federal Register.

"(IV) PROCEDURES.—Any revocation by the Secretary shall be made in accordance with paragraph (6).”; and

(3) by adding at the end the following:

"(C) OTHER REVIEW OF DESIGNATION.—

"(i) IN GENERAL.—If in a 6–year period no review has taken place under subparagraph (B), the Secretary shall review the designation of the foreign terrorist organization in order to determine whether such designation should be revoked pursuant to paragraph (6).

"(ii) PROCEDURES.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

"(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.”.

(b) ALIASES.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) AMENDMENTS TO A DESIGNATION.—

"(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary finds that the organization has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another organization.

"(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Subparagraphs (B) and (C) of subsection (a)(2) shall apply to an amended designation upon such publication. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

"(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

"(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) is amended—

(1) in subsection (a)—

(A) in paragraph (3)(B), by striking "subsection (b)" and inserting "subsection (c)";

(B) in paragraph (6)(A)—

(i) in the matter preceding clause (i), by striking "or a redesignation made under paragraph (4)(B)" and inserting "at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (B) and (C) of paragraph (4)"; and

(ii) in clause (i), by striking "or redesignation";

(C) in paragraph (7), by striking ", or the revocation of a redesignation under paragraph (6),"; and

(D) in paragraph (8)—

(i) by striking ", or if a redesignation under this subsection has become effective under paragraph (4)(B),"; and

(ii) by striking "or redesignation"; and

(2) in subsection (c), as so redesignated—

(A) in paragraph (1), by striking "of the designation in the Federal Register," and all that follows through "review of the designation" and inserting "in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated organization may seek judicial review";

(B) in paragraph (2), by inserting ", amended designation, or determination in response to a petition for revocation" after "designation";

(C) in paragraph (3), by inserting ", amended designation, or determination in response to a petition for revocation" after "designation"; and

(D) in paragraph (4), by inserting ", amended designation, or determination in response to a petition for revocation" after "designation" each place that term appears.

(d) SAVINGS PROVISION.—For purposes of applying section 219 of the Immigration and Nationality Act on or after the date of enactment of this Act, the term "designation", as used in that section, includes all redesignations made pursuant to section 219(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the date of enactment of this Act, and such redesignations shall continue to be effective until revoked as provided in paragraph (5) or (6) of section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE COUNTRY REPORTS ON TERRORISM OF INFORMATION ON TERRORIST GROUPS THAT SEEK WEAPONS OF MASS DESTRUCTION AND GROUPS THAT HAVE BEEN DESIGNATED AS FOREIGN TERRORIST ORGANIZATIONS.

(a) INCLUSION IN REPORTS.—Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended—

(1) in subsection (a)(2)—

(A) by inserting "any terrorist group known to have obtained or developed, or to have attempted to obtain or develop, weapons of mass destruction," after "during the preceding five years,"; and

(B) by inserting "any group designated by the Secretary as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189)," after "Export Administration Act of 1979,";

(2) in subsection (b)(1)(C)(iii), by striking "and" at the end;

(3) in subsection (b)(1)(C)—

(A) by redesignating clause (iv) as clause (v); and

(B) by inserting after clause (iii) the following new clause:

"(iv) providing weapons of mass destruction, or assistance in obtaining or developing such weapons, to terrorists or terrorist groups; and"; and

(4) in subsection (b)(3) (as redesignated by section 4002(b)(2)(B) of this Act)—

(A) by redesignating subparagraphs (C), (D), and (E) as (D), (E), and (F), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) efforts by those groups to obtain or develop weapons of mass destruction;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning with the first report under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), submitted more than one year after the date of the enactment of this Act.

Subtitle D—Afghanistan Freedom Support Act Amendments of 2004

SEC. 4061. SHORT TITLE.

This subtitle may be cited as the "Afghanistan Freedom Support Act Amendments of 2004".

SEC. 4062. COORDINATION OF ASSISTANCE FOR AFGHANISTAN.

(a) FINDINGS.—Congress finds that—

(1) the Final Report of the National Commission on Terrorist Attacks Upon the United States criticized the provision of United States assistance to Afghanistan for being too inflexible; and

(2) the Afghanistan Freedom Support Act of 2002 (Public Law 107–327; 22 U.S.C. 7501 et seq.) contains provisions that provide for flexibility in the provision of assistance for Afghanistan and are not subject to the requirements of typical foreign assistance programs and provide for the designation of a coordinator to oversee United States assistance for Afghanistan.

(b) DESIGNATION OF COORDINATOR.—Section 104(a) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7514(a)) is amended in the matter preceding paragraph (1) by striking "is strongly urged to" and inserting "shall".

(c) OTHER MATTERS.—Section 104 of such Act (22 U.S.C. 7514) is amended by adding at the end the following:

"(c) PROGRAM PLAN.—The coordinator designated under subsection (a) shall annually submit to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate the Administration's plan for assistance to Afghanistan together with a description of such assistance in prior years.

"(d) COORDINATION WITH INTERNATIONAL COMMUNITY.—The coordinator designated under subsection (a) shall work with the international community, including multilateral organizations and international financial institutions, and the Government of Afghanistan to ensure that assistance to Afghanistan is implemented in a coherent, consistent, and efficient manner to prevent duplication and waste.".

SEC. 4063. GENERAL PROVISIONS RELATING TO THE AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.

(a) ASSISTANCE TO PROMOTE ECONOMIC, POLITICAL AND SOCIAL DEVELOPMENT.—

(1) DECLARATION OF POLICY.—Congress reaffirms the authorities contained in title I of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.; relating to economic and democratic development assistance for Afghanistan).

(2) PROVISION OF ASSISTANCE.—Section 103(a) of such Act (22 U.S.C. 7513(a)) is amended in the matter preceding paragraph (1) by striking "section 512 of Public Law 107–115 or any other similar" and inserting "any other".

(b) DECLARATIONS OF POLICY.—Congress makes the following declarations:

(1) The United States reaffirms the support that it and other countries expressed for the report entitled "Securing Afghanistan's Future" in their Berlin Declaration of April 2004. The United States should help enable the growth needed to create an economically sustainable Afghanistan capable of the poverty reduction and social development foreseen in the report.

(2) The United States supports the parliamentary elections to be held in Afghanistan by April 2005 and will help ensure that such elections are not undermined by warlords or narcotics traffickers.

(3)(A) The United States continues to urge North Atlantic Treaty Organization members and other friendly countries to make much greater military contributions toward securing the peace in Afghanistan.

(B) The United States should continue to lead in the security domain by, among other things, providing logistical support to facilitate those contributions.

(C) In coordination with the Government of Afghanistan, the United States should urge others, and act itself, to increase efforts to promote disarmament, demobilization, and reintegration efforts, to enhance counternarcotics activities, to expand deployments of Provincial Reconstruction Teams, and to increase training of Afghanistan's National Army and its police and border security forces.

(c) LONG-TERM STRATEGY.—

(1) STRATEGY.—Title III of such Act (22 U.S.C. 7551 et seq.) is amended by adding at the end the following:

"SEC. 304 FORMULATION OF LONG-TERM STRATEGY FOR AFGHANISTAN.

"(a) STRATEGY.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Afghanistan Freedom Support Act Amendments of 2004, the President shall formulate and transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a 5–year strategy for Afghanistan that includes specific and measurable goals, timeframes for accomplishing such goals, and specific resource levels necessary for accomplishing such goals for addressing the long-term development and security needs of Afghanistan, including sectors such as agriculture and irrigation, parliamentary and democratic development, the judicial system and rule of law, human rights, education, health, telecommunications, electricity, women's rights, counternarcotics, police, border security, anti-corruption, and other law-enforcement activities.

"(2) ADDITIONAL REQUIREMENT.—The strategy shall also delineate responsibilities for achieving such goals and identify and address possible external factors that could significantly affect the achievement of such goals.

"(b) IMPLEMENTATION.—Not later than 30 days after the date of the transmission of the strategy required by subsection (a), the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of Defense shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a written 5–year action plan to implement the strategy developed pursuant to subsection (a). Such action plan shall include a description and schedule of the program evaluations that will monitor progress toward achieving the goals described in subsection (a).

"(c) REVIEW.—The Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of Defense shall carry out an annual review of the strategy required by subsection (a) and the action plan required by subsection (b).

"(d) MONITORING.—The report required by section 206(c)(2) of this Act shall include—

"(1) a description of progress toward implementation of both the strategy required by subsection (a) and the action plan required by subsection (b); and

"(2) a description of any changes to the strategy or action plan since the date of the submission of the last report required by such section.".

(2) CLERICAL AMENDMENT.—The table of contents for such Act (22 U.S.C. 7501 note) is amended by adding after the item relating to section 303 the following:

"Sec. 304. Formulation of long-term strategy for Afghanistan.".

SEC. 4064. RULE OF LAW AND RELATED ISSUES.

Section 103(a)(5)(A) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(5)(A)) is amended—

(1) in clause (v), to read as follows:

"(v) support for the activities of the Government of Afghanistan to develop modern legal codes and court rules, to provide for the creation of legal assistance programs, and other initiatives to promote the rule of law in Afghanistan;";

(2) in clause (xii), to read as follows:

"(xii) support for the effective administration of justice at the national, regional, and local levels, including programs to improve penal institutions and the rehabilitation of prisoners, to establish a responsible and community-based police force, and to rehabilitate or construct courthouses and detention facilities;"; and

(3) in clause (xiii), by striking "and" at the end;

(4) in clause (xiv), by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following:

"(xv) assistance for the protection of Afghanistan's culture, history, and national identity, including with the rehabilitation of Afghanistan's museums and sites of cultural significance.".

SEC. 4065. MONITORING OF ASSISTANCE.

Section 108 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7518) is amended by adding at the end the following:

"(c) MONITORING OF ASSISTANCE FOR AFGHANISTAN.—

"(1) REPORT.—Not later than January 15, 2005, and every six months thereafter, the Secretary of State, in consultation with the Administrator for the United States Agency for International Development, shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the obligations and expenditures of United States assistance for Afghanistan from all United States Government agencies.

"(2) SUBMISSION OF INFORMATION FOR REPORT.—The head of each United States Government agency referred to in paragraph (1) shall provide on a timely basis to the Secretary of State such information as the Secretary may reasonably require to allow the Secretary to prepare and submit the report required by such paragraph.".

SEC. 4066. UNITED STATES POLICY TO SUPPORT DISARMAMENT OF PRIVATE MILITIAS AND TO SUPPORT EXPANSION OF INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.

(a) DISARMAMENT OF PRIVATE MILITIAS.—Section 103 of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513) is amended by adding at the end the following:

"(d) UNITED STATES POLICY RELATING TO DISARMAMENT OF PRIVATE MILITIAS.—

"(1) IN GENERAL.—It shall be the policy of the United States to take immediate steps to provide active support for the disarmament, demobilization, and reintegration of armed soldiers, particularly child soldiers, in Afghanistan, in close consultation with the President of Afghanistan.

"(2) REPORT.—The report required by section 206(c)(2) of this Act shall include a description of the progress to implement paragraph (1).".

(b) INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS.—Section 103 of such Act (22 U.S.C. 7513(d)), as amended by subsection (a), is further amended by adding at the end the following:

"(e) UNITED STATES POLICY RELATING TO INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS.—It shall be the policy of the United States to make every effort to support the expansion of international peacekeeping and security operations in Afghanistan in order to—

"(1) increase the area in which security is provided and undertake vital tasks related to promoting security, such as disarming warlords, militias, and irregulars, and disrupting opium production; and

"(2) safeguard highways in order to allow the free flow of commerce and to allow material assistance to the people of Afghanistan, and aid personnel in Afghanistan, to move more freely.".

SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.

Section 206(d)(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7536(d)(1)) is amended to read as follows:

"(1) EFFORTS TO EXPAND INTERNATIONAL PEACEKEEPING AND SECURITY OPERATIONS IN AFGHANISTAN.—

"(A) EFFORTS.—The President shall encourage, and, as authorized by law, enable other countries to actively participate in expanded international peacekeeping and security operations in Afghanistan, especially through the provision of military personnel for extended periods of time.

"(B) REPORTS.—The President shall prepare and transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on efforts carried out pursuant to subparagraph (A). The first report under this subparagraph shall be transmitted not later than 60 days after the date of the enactment of the Afghanistan Freedom Support Act Amendments of 2004 and subsequent reports shall be transmitted every six months thereafter and may be included in the report required by section 206(c)(2) of this Act.".

SEC. 4068. PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN.

(a) COUNTERNARCOTICS EFFORTS.—The Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) is amended—

(1) by redesignating—

(A) title III as title IV; and

(B) sections 301 through 304 as sections 401 through 404, respectively; and

(2) by inserting after title II the following:

"TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN

"SEC. 301. ASSISTANCE FOR COUNTERNARCOTICS EFFORTS.

"In addition to programs established pursuant to section 103(a)(3) of this Act or other similar programs, the President is authorized and encouraged to implement specific initiatives to assist in the eradication of poppy cultivation and the disruption of heroin production in Afghanistan, such as—

"(1) promoting alternatives to poppy cultivation, including the introduction of high value crops that are suitable for export and the provision of appropriate technical assistance and credit mechanisms for farmers;

"(2) enhancing the ability of farmers to bring legitimate agricultural goods to market;

"(3) notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420), assistance, including nonlethal equipment, training (including training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy), and payments, during fiscal years 2006 through 2008, for salaries for special counternarcotics police and supporting units;

"(4) training the Afghan National Army in counternarcotics activities; and

"(5) creating special counternarcotics courts, prosecutors, and places of incarceration.".

(b) CLERICAL AMENDMENTS.—The table of contents for such Act (22 U.S.C. 7501 note) is amended—

(1) by redesignating—

(A) the item relating to title III as the item relating to title IV; and

(B) the items relating to sections 301 through 304 as the items relating to sections 401 through 404; and

(2) by inserting after the items relating to title II the following:

"TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS EFFORTS IN AFGHANISTAN

"Sec. 301. Assistance for counternarcotics efforts.".

SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.

(a) TECHNICAL AMENDMENT.—Section 103(a)(7)(A)(xii) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7513(a)(7)(A)(xii)) is amended by striking "National" and inserting "Afghan Independent".

(b) REPORTING REQUIREMENT.—Section 206(c)(2) of such Act (22 U.S.C. 7536(c)(2)) is amended in the matter preceding subparagraph (A) by striking "2007" and inserting "2012".

SEC. 4070. REPEAL.

Section 620D of the Foreign Assistance Act of 1961 (22 U.S.C. 2374; relating to prohibition on assistance to Afghanistan) is hereby repealed.

Subtitle E—Provisions Relating to Saudi Arabia and Pakistan

SEC. 4081. NEW UNITED STATES STRATEGY FOR RELATIONSHIP WITH SAUDI ARABIA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the relationship between the United States and Saudi Arabia should include a more robust dialogue between the people and Government of the United States and the people and Government of Saudi Arabia in order to provide for a reevaluation of, and improvements to, the relationship by both sides.

(b) REPORT.—

(1) IN GENERAL.— Not later than one year after the date of the enactment of this Act, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a strategy for collaboration with the people and Government of Saudi Arabia on subjects of mutual interest and importance to the United States.

(2) CONTENTS.—The strategy required under paragraph (1) shall include the following provisions:

(A) A framework for security cooperation in the fight against terrorism, with special reference to combating terrorist financing and an examination of the origins of modern terrorism.

(B) A framework for political and economic reform in Saudi Arabia and throughout the Middle East.

(C) An examination of steps that should be taken to reverse the trend toward extremism in Saudi Arabia and other Muslim countries and throughout the Middle East.

(D) A framework for promoting greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East.

SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE OF PAKISTAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should, over a long-term period, help to ensure a promising, stable, and secure future for Pakistan, and should in particular provide assistance to encourage and enable Pakistan—

(1) to continue and improve upon its commitment to combating extremists;

(2) to seek to resolve any outstanding difficulties with its neighbors and other countries in its region;

(3) to continue to make efforts to fully control its territory and borders;

(4) to progress towards becoming a more effective and participatory democracy;

(5) to participate more vigorously in the global marketplace and to continue to modernize its economy;

(6) to take all necessary steps to halt the spread of weapons of mass destruction;

(7) to continue to reform its education system; and

(8) to, in other ways, implement a general strategy of moderation.

(b) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress a detailed proposed strategy for the future, long-term, engagement of the United States with Pakistan.

SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.

The Act entitled "An Act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes", approved October 27, 2001 (Public Law 107–57; 115 Stat. 403), as amended by section 2213 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1232), is further amended—

(1) in section 1(b)—

(A) in the heading, by striking "FISCAL YEAR 2004" and inserting "FISCAL YEARS 2005 AND 2006"; and

(B) in paragraph (1), by striking "2004" and inserting "2005 or 2006";

(2) in section 3(2), by striking "and 2004," and inserting "2004, 2005, and 2006"; and

(3) in section 6, by striking "2004" and inserting "2006".

Subtitle F—Oversight Provisions

SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.

(a) AVAILABILITY OF TREATIES AND INTERNATIONAL AGREEMENTS.—Section 112a of title 1, United States Code, is amended by adding at the end the following:

"(d) The Secretary of State shall cause to be published in slip form or otherwise made publicly available through the Internet website of the Department of State each treaty or international agreement proposed to be published in the compilation entitled 'United States Treaties and Other International Agreements' not later than 180 days after the date on which the treaty or agreement enters into force.".

(b) TRANSMISSION TO CONGRESS.—Section 112b(a) of title 1, United States Code (commonly referred to as the "Case-Zablocki Act"), is amended—

(1) in the first sentence, by striking "has entered into force" and inserting "has been signed or entered into force"; and

(2) in the second sentence, by striking "Committee on Foreign Affairs" and inserting "Committee on International Relations".

(c) REPORT.—Section 112b of title 1, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d)(1) The Secretary of State shall submit to Congress on an annual basis a report that contains an index of all international agreements (including oral agreements), listed by country, date, title, and summary of each such agreement (including a description of the duration of activities under the agreement and the agreement itself), that the United States—

"(A) has signed, proclaimed, or with reference to which any other final formality has been executed, or that has been extended or otherwise modified, during the preceding calendar year; and

"(B) has not been published, or is not proposed to be published, in the compilation entitled 'United States Treaties and Other International Agreements'.

"(2) The report described in paragraph (1) may be submitted in classified form.".

(d) DETERMINATION OF INTERNATIONAL AGREEMENT.—Subsection (e) of section 112b of title 1, United States Code, (as redesignated) is amended—

(1) by striking "(e) The Secretary of State" and inserting "(e)(1) Subject to paragraph (2), the Secretary of State"; and

(2) by adding at the end the following:

"(2)(A) An arrangement shall constitute an international agreement within the meaning of this section (other than subsection (c) of this section) irrespective of the duration of activities under the arrangement or the arrangement itself.

"(B) Arrangements that constitute an international agreement within the meaning of this section (other than subsection (c) of this section) include, but are not limited to, the following:

"(i) A bilateral or multilateral counterterrorism agreement.

"(ii) A bilateral agreement with a country that is subject to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).".

(e) ENFORCEMENT OF REQUIREMENTS.—Section 139(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 is amended to read as follows:

"(b) EFFECTIVE DATE.—Subsection (a) shall take effect 60 days after the date of the enactment of the 9/11 Recommendations Implementation Act and shall apply during fiscal years 2005, 2006, and 2007.".

Subtitle G—Additional Protections of United States Aviation System from Terrorist Attacks

SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAXIMUM DEPLOYMENT OF FEDERAL FLIGHT DECK OFFICERS.

The President is encouraged to pursue aggressively international agreements with foreign governments to allow the maximum deployment of Federal air marshals and Federal flight deck officers on international flights.

SEC. 4102. FEDERAL AIR MARSHAL TRAINING.

Section 44917 of title 49, United States Code, is amended by adding at the end the following:

"(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

"(1) IN GENERAL.—The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

"(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement personnel of foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against appropriate records in the consolidated and integrated terrorist watchlists of the Federal Government.

"(3) FEES.—The Assistant Secretary shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.".

SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS).

(a) UNITED STATES POLICY ON NONPROLIFERATION AND EXPORT CONTROL.—

(1) TO LIMIT AVAILABILITY AND TRANSFER OF MANPADS.—The President shall pursue, on an urgent basis, further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to limit the availability, transfer, and proliferation of MANPADSs worldwide.

(2) TO LIMIT THE PROLIFERATION OF MANPADS.—The President is encouraged to seek to enter into agreements with the governments of foreign countries that, at a minimum, would—

(A) prohibit the entry into force of a MANPADS manufacturing license agreement and MANPADS co-production agreement, other than the entry into force of a manufacturing license or co-production agreement with a country that is party to such an agreement;

(B) prohibit, except pursuant to transfers between governments, the export of a MANPADS, including any component, part, accessory, or attachment thereof, without an individual validated license; and

(C) prohibit the reexport or retransfer of a MANPADS, including any component, part, accessory, or attachment thereof, to a third person, organization, or government unless the written consent of the government that approved the original export or transfer is first obtained.

(3) TO ACHIEVE DESTRUCTION OF MANPADS.—The President should continue to pursue further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to assure the destruction of excess, obsolete, and illicit stocks of MANPADSs worldwide.

(4) REPORTING AND BRIEFING REQUIREMENT.—

(A) PRESIDENT'S REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of diplomatic efforts under paragraphs (1), (2), and (3) and of efforts by the appropriate United States agencies to comply with the recommendations of the General Accounting Office set forth in its report GAO–04–519, entitled "Nonproliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems".

(B) ANNUAL BRIEFINGS.—Annually after the date of submission of the report under subparagraph (A) and until completion of the diplomatic and compliance efforts referred to in subparagraph (A), the Secretary of State shall brief the appropriate congressional committees on the status of such efforts.

(b) FAA AIRWORTHINESS CERTIFICATION OF MISSILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

(1) IN GENERAL.—As soon as practicable, but not later than the date of completion of Phase II of the Department of Homeland Security's counter-man-portable air defense system (MANPADS) development and demonstration program, the Administrator of the Federal Aviation Administration shall establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft certified as effective and functional by the Department of Homeland Security. The process shall require a certification by the Administrator that such systems can be safely integrated into aircraft systems and ensure airworthiness and aircraft system integrity.

(2) CERTIFICATION ACCEPTANCE.—Under the process, the Administrator shall accept the certification of the Department of Homeland Security that a missile defense system is effective and functional to defend commercial aircraft against MANPADSs.

(3) EXPEDITIOUS CERTIFICATION.—Under the process, the Administrator shall expedite the airworthiness and safety certification of missile defense systems for commercial aircraft certified by the Department of Homeland Security.

(4) REPORTS.—Not later than 90 days after the first airworthiness and safety certification for a missile defense system for commercial aircraft is issued by the Administrator, and annually thereafter until December 31, 2008, the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains a detailed description of each airworthiness and safety certification issued for a missile defense system for commercial aircraft.

(c) PROGRAMS TO REDUCE MANPADS.—

(1) IN GENERAL.—The President is encouraged to pursue strong programs to reduce the number of MANPADSs worldwide so that fewer MANPADSs will be available for trade, proliferation, and sale.

(2) REPORTING AND BRIEFING REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of the programs being pursued under subsection (a). Annually thereafter until the programs are no longer needed, the Secretary of State shall brief the appropriate congressional committees on the status of programs.

(3) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) MANPADS VULNERABILITY ASSESSMENTS REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Department of Homeland Security's plans to secure airports and the aircraft arriving and departing from airports against MANPADSs attacks.

(2) MATTERS TO BE ADDRESSED.—The Secretary's report shall address, at a minimum, the following:

(A) The status of the Department's efforts to conduct MANPADSs vulnerability assessments at United States airports at which the Department is conducting assessments.

(B) How intelligence is shared between the United States intelligence agencies and Federal, State, and local law enforcement to address the MANPADS threat and potential ways to improve such intelligence sharing.

(C) Contingency plans that the Department has developed in the event that it receives intelligence indicating a high threat of a MANPADS attack on aircraft at or near United States airports.

(D) The feasibility and effectiveness of implementing public education and neighborhood watch programs in areas surrounding United States airports in cases in which intelligence reports indicate there is a high risk of MANPADS attacks on aircraft.

(E) Any other issues that the Secretary deems relevant.

(3) FORMAT.—The report required by this subsection may be submitted in a classified format.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on International Relations, and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) MANPADS.—The term "MANPADS" means—

(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

Subtitle H—Improving International Standards and Cooperation to Fight Terrorist Financing

SEC. 4111. SENSE OF THE CONGRESS REGARDING SUCCESS IN MULTILATERAL ORGANIZATIONS.

(a) COMMENDATION.—The Congress commends the Secretary of the Treasury for success and leadership in establishing international standards for fighting terrorist finance through multilateral organizations, including the Financial Action Task Force (FATF) at the Organization for Economic Cooperation and Development, the International Monetary Fund, the International Bank for Reconstruction and Development, and the regional multilateral development banks.

(b) POLICY GUIDANCE.—The Congress encourages the Secretary of the Treasury to direct the United States Executive Director at each international financial institution to use the voice and vote of the United States to urge the institution, and encourages the Secretary of the Treasury to use the voice and vote of the United States in other multilateral financial policymaking bodies, to—

(1) provide funding for the implementation of FATF anti-money laundering and anti-terrorist financing standards; and

(2) promote economic development in the Middle East.

SEC. 4112. EXPANDED REPORTING REQUIREMENT FOR THE SECRETARY OF THE TREASURY.

(a) IN GENERAL.—Section 1701(b) of the International Financial Institutions Act (22 U.S.C. 262r(b)) is amended—

(1) by striking "and" at the end of paragraph (10); and

(2) by redesignating paragraph (11) as paragraph (12) and inserting after paragraph (10) the following:

"(11) an assessment of—

"(A) the progress made by the International Terrorist Finance Coordinating Council in developing policies to be pursued with the international financial institutions and other multilateral financial policymaking bodies regarding anti-terrorist financing initiatives;

"(B) the progress made by the United States in negotiations with the international financial institutions and other multilateral financial policymaking bodies to set common anti-terrorist financing standards;

"(C) the extent to which the international financial institutions and other multilateral financial policymaking bodies have adopted anti-terrorist financing standards advocated by the United States; and

"(D) whether and how the international financial institutions are contributing to the fight against the financing of terrorist activities; and".

(b) OTHER MULTILATERAL POLICYMAKING BODIES DEFINED.—Section 1701(c) of such Act (22 U.S.C. 262r(c)) is amended by adding at the end the following:

"(5) OTHER MULTILATERAL FINANCIAL POLICYMAKING BODIES.—The term 'other multilateral financial policymaking bodies' means—

"(A) the Financial Action Task Force at the Organization for Economic Cooperation and Development;

"(B) the international network of financial intelligence units known as the 'Egmont Group';

"(C) the United States, Canada, the United Kingdom, France, Germany, Italy, Japan, and Russia, when meeting as the Group of Eight; and

"(D) any other multilateral financial policymaking group in which the Secretary of the Treasury represents the United States.".

SEC. 4113. INTERNATIONAL TERRORIST FINANCE COORDINATING COUNCIL.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish and convene an interagency council, to be known as the "International Terrorist Finance Coordinating Council" (in this section referred to as the "Council"), which shall advise the Secretary on policies to be pursued by the United States at meetings of the international financial institutions and other multilateral financial policymaking bodies, regarding the development of international anti-terrorist financing standards.

(b) MEETINGS.—

(1) ATTENDEES.—

(A) GENERAL ATTENDEES.—The Secretary of the Treasury (or a representative of the Secretary of the Treasury) and the Secretary of State (or a representative of the Secretary of State) shall attend each Council meeting.

(B) OTHER ATTENDEES.—The Secretary of the Treasury shall determine which other officers of the Federal Government shall attend a Council meeting, on the basis of the issues to be raised for consideration at the meeting. The Secretary shall include in the meeting representatives from all relevant Federal agencies with authority to address the issues.

(2) SCHEDULE.—Not less frequently than annually, the Secretary of the Treasury shall convene Council meetings at such times as the Secretary deems appropriate, based on the notice, schedule, and agenda items of the international financial institutions and other multilateral financial policymaking bodies.

SEC. 4114. DEFINITIONS.

In this subtitle:

(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term "international financial institutions" has the meaning given in section 1701(c)(2) of the International Financial Institutions Act.

(2) OTHER MULTILATERAL FINANCIAL POLICYMAKING BODIES.—The term "other multilateral financial policymaking bodies" means—

(A) the Financial Action Task Force at the Organization for Economic Cooperation and Development;

(B) the international network of financial intelligence units known as the "Egmont Group";

(C) the United States, Canada, the United Kingdom, France, Germany, Italy, Japan, and Russia, when meeting as the Group of Eight; and

(D) any other multilateral financial policymaking group in which the Secretary of the Treasury represents the United States.

TITLE V—GOVERNMENT RESTRUCTURING

Subtitle A—Faster and Smarter Funding for First Responders

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "Faster and Smarter Funding for First Responders Act of 2004".

SEC. 5002. FINDINGS.

The Congress finds the following:

(1) In order to achieve its objective of minimizing the damage, and assisting in the recovery, from terrorist attacks, the Department of Homeland Security must play a leading role in assisting communities to reach the level of preparedness they need to respond to a terrorist attack.

(2) First responder funding is not reaching the men and women of our Nation's first response teams quickly enough, and sometimes not at all.

(3) To reform the current bureaucratic process so that homeland security dollars reach the first responders who need it most, it is necessary to clarify and consolidate the authority and procedures of the Department of Homeland Security that support first responders.

(4) Ensuring adequate resources for the new national mission of homeland security, without degrading the ability to address effectively other types of major disasters and emergencies, requires a discrete and separate grant making process for homeland security funds for first response to terrorist acts, on the one hand, and for first responder programs designed to meet pre-September 11 priorities, on the other.

(5) While a discrete homeland security grant making process is necessary to ensure proper focus on the unique aspects of terrorism prevention, preparedness, and response, it is essential that State and local strategies for utilizing such grants be integrated, to the greatest extent practicable, with existing State and local emergency management plans.

(6) Homeland security grants to first responders must be based on the best intelligence concerning the capabilities and intentions of our terrorist enemies, and that intelligence must be used to target resources to the Nation's greatest threats, vulnerabilities, and consequences.

(7) The Nation's first response capabilities will be improved by sharing resources, training, planning, personnel, and equipment among neighboring jurisdictions through mutual aid agreements and regional cooperation. Such regional cooperation should be supported, where appropriate, through direct grants from the Department of Homeland Security.

(8) An essential prerequisite to achieving the Nation's homeland security objectives for first responders is the establishment of well-defined national goals for terrorism preparedness. These goals should delineate the essential capabilities that every jurisdiction in the United States should possess or to which it should have access.

(9) A national determination of essential capabilities is needed to identify levels of State and local government terrorism preparedness, to determine the nature and extent of State and local first responder needs, to identify the human and financial resources required to fulfill them, and to direct funding to meet those needs and to measure preparedness levels on a national scale.

(10) To facilitate progress in achieving, maintaining, and enhancing essential capabilities for State and local first responders, the Department of Homeland Security should seek to allocate homeland security funding for first responders to meet nationwide needs.

(11) Private sector resources and citizen volunteers can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity.

(12) Public-private partnerships, such as the partnerships between the Business Executives for National Security and the States of New Jersey and Georgia, can be useful to identify and coordinate private sector support for State and local first responders. Such models should be expanded to cover all States and territories.

(13) An important aspect of essential capabilities is measurability, so that it is possible to determine how prepared a State or local government is now, and what additional steps it needs to take, in order to respond to acts of terrorism.

(14) The Department of Homeland Security should establish, publish, and regularly update national voluntary consensus standards for both equipment and training, in cooperation with both public and private sector standard setting organizations, to assist State and local governments in obtaining the equipment and training to attain the essential capabilities for first response to acts of terrorism, and to ensure that first responder funds are spent wisely.

SEC. 5003. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by adding at the end the following:

"TITLE XVIII—FUNDING FOR FIRST RESPONDERS

"Sec. 1801. Definitions.
"Sec. 1802. Faster and smarter funding for first responders.
"Sec. 1803. Essential capabilities for first responders.
"Sec. 1804. Task Force on Essential Capabilities for First Responders.
"Sec. 1805. Covered grant eligibility and criteria.
"Sec. 1806. Use of funds and accountability requirements.
"Sec. 1807. National standards for first responder equipment and training."; and

(2) by adding at the end the following:

"TITLE XVIII—FUNDING FOR FIRST RESPONDERS

"SEC. 1801. DEFINITIONS.

"In this title:

"(1) BOARD.—The term 'Board' means the First Responder Grants Board established under section 1805(f).

"(2) COVERED GRANT.—The term 'covered grant' means any grant to which this title applies under section 1802.

"(3) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

"(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

"(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

"(C)(i) is located on, or within 5 miles of, an international border or waterway;

"(ii) is located within 5 miles of a facility within a critical infrastructure sector identified in section 1803(c)(2);

"(iii) is located within or contiguous to one of the 50 largest metropolitan statistical areas in the United States; or

"(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

"(4) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

"(5) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness" shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

"(6) ESSENTIAL CAPABILITIES.—The term 'essential capabilities" means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to acts of terrorism consistent with established practices.

"(7) FIRST RESPONDER.—The term 'first responder' shall have the same meaning as the term 'emergency response provider'.

"(8) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(9) REGION.—The term 'region' means—

"(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

"(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is for-

mally certified by the Secretary as a region for purposes of this Act with the consent of—

"(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

"(ii) the incorporated municipalities, counties, and parishes that they encompass.

"(10) TASK FORCE.—The term 'Task Force' means the Task Force on Essential Capabilities for First Responders established under section 1804.

"SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

"(a) COVERED GRANTS.—This title applies to grants provided by the Department to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks, especially those involving weapons of mass destruction, administered under the following:

"(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

"(2) URBAN AREA SECURITY INITIATIVE.—The Urban Area Security Initiative of the Department, or any successor to such grant program.

"(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

"(4) CITIZEN CORPS PROGRAM.—The Citizen Corps Program of the Department, or any successor to such grant program.

"(b) EXCLUDED PROGRAMS.—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

"(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

"(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

"(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

"SEC. 1803. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.

"(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—

"(1) IN GENERAL.—For purposes of covered grants, the Secretary shall establish clearly defined essential capabilities for State and local government preparedness for terrorism, in consultation with—

"(A) the Task Force on Essential Capabilities for First Responders established under section 1804;

"(B) the Under Secretaries for Emergency Preparedness and Response, Border and Transportation Security, Information Analysis and Infrastructure Protection, and Science and Technology, and the Director of the Office for Domestic Preparedness;

"(C) the Secretary of Health and Human Services;

"(D) other appropriate Federal agencies;

"(E) State and local first responder agencies and officials; and

"(F) consensus-based standard making organizations responsible for setting standards relevant to the first responder community.

"(2) DEADLINES.—The Secretary shall—

"(A) establish essential capabilities under paragraph (1) within 30 days after receipt of the report under section 1804(b); and

"(B) regularly update such essential capabilities as necessary, but not less than every 3 years.

"(3) PROVISION OF ESSENTIAL CAPABILITIES.—The Secretary shall ensure that a detailed description of the essential capabilities established under paragraph (1) is provided promptly to the States and to the Congress. The States shall make the essential capabilities available as necessary and appropriate to local governments within their jurisdictions.

"(b) OBJECTIVES.—The Secretary shall ensure that essential capabilities established under subsection (a)(1) meet the following objectives:

"(1) SPECIFICITY.—The determination of essential capabilities specifically shall describe the training, planning, personnel, and equipment that different types of communities in the Nation should possess, or to which they should have ac-

cess, in order to meet the Department's goals for terrorism preparedness based upon—

"(A) the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States;

"(B) the types of threats, vulnerabilities, geography, size, and other factors that the Secretary has determined to be applicable to each different type of community; and

"(C) the principles of regional coordination and mutual aid among State and local governments.

"(2) FLEXIBILITY.—The establishment of essential capabilities shall be sufficiently flexible to allow State and local government officials to set priorities based on particular needs, while reaching nationally determined terrorism preparedness levels within a specified time period.

"(3) MEASURABILITY.—The establishment of essential capabilities shall be designed to enable measurement of progress towards specific terrorism preparedness goals.

"(4) COMPREHENSIVENESS.—The determination of essential capabilities for terrorism preparedness shall be made within the context of a comprehensive State emergency management system.

"(c) FACTORS TO BE CONSIDERED.—

"(1) IN GENERAL.—In establishing essential capabilities under subsection (a)(1), the Secretary specifically shall consider the variables of threat, vulnerability, and consequences with respect to the Nation's population (including transient commuting and tourist populations) and critical infrastructure. Such consideration shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

"(2) CRITICAL INFRASTRUCTURE SECTORS.—The Secretary specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the Nation, urban and rural:

"(A) Agriculture.
"(B) Banking and finance.
"(C) Chemical industries.
"(D) The defense industrial base.
"(E) Emergency services.
"(F) Energy.
"(G) Food.
"(H) Government.
"(I) Postal and shipping.
"(J) Public health.
"(K) Information and telecommunications networks.
"(L) Transportation.
"(M) Water.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

"(3) TYPES OF THREAT.—The Secretary specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the Nation, urban and rural:

"(A) Biological threats.
"(B) Nuclear threats.
"(C) Radiological threats.
"(D) Incendiary threats.
"(E) Chemical threats.
"(F) Explosives.
"(G) Suicide bombers.
"(H) Cyber threats.
"(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

"(4) CONSIDERATION OF ADDITIONAL FACTORS.—In establishing essential capabilities under subsection (a)(1), the Secretary shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Secretary has determined to exist.

"SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.

"(a) ESTABLISHMENT.—To assist the Secretary in establishing essential capabilities under section 1803(a)(1), the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Essential Capabilities for First Responders.

"(b) REPORT.—

"(1) IN GENERAL.—The Task Force shall submit to the Secretary, not later than 9 months after its establishment by the Secretary under subsection (a) and every 3 years thereafter, a report on its recommendations for essential capabilities for preparedness for terrorism.

"(2) CONTENTS.—The report shall—

"(A) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to the Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

"(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

"(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

"(D) include such additional matters as the Secretary may specify in order to further the terrorism preparedness capabilities of first responders; and

"(E) include such revisions to the contents of past reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

"(3) CONSISTENCY WITH FEDERAL WORKING GROUP.—The Task Force shall ensure that its recommendations for essential capabilities are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

"(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

"(5) PRIOR MEASURES.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent or prepare for terrorist attacks.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

"(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

"(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

"(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

"(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing one of the two major political parties, an equal number of elected officials shall be selected from each such party.

"(2) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HEALTH SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate the selection with the Secretary of Health and Human Services.

"(3) EX OFFICIO MEMBERS.—The Secretary and the Secretary of Health and Human Services shall each designate one or more officers of their respective Departments to serve as ex officio members of the Task Force. One of the ex officio members from the Department of Homeland Security shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 App. U.S.C.).

"(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

"SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.

"(a) GRANT ELIGIBILITY.—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

"(b) GRANT CRITERIA.—In awarding covered grants, the Secretary shall assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for first responders established by the Secretary under section 1803.

"(c) STATE HOMELAND SECURITY PLANS.—

"(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3–year State homeland security plan that—

"(A) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

"(B) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

"(C) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

"(D) describes how the State intends—

"(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

"(ii) to use all Federal, State, and local resources available for the purpose of addressing such needs; and

"(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

"(E) is developed in consultation with and subject to appropriate comment by local governments within the State; and

"(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan.

"(2) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

"(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

"(e) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, or directly eligible tribe may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

"(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants must be submitted at such time as the Secretary may reasonably require for the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

"(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

"(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

"(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe to which the application pertains;

"(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities specified in such plan or plans;

"(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

"(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

"(E) if the applicant is a region—

"(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

"(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

"(iii) a designation of a specific individual to serve as regional liaison;

"(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

"(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison; and

"(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

"(5) REGIONAL APPLICATIONS.—

"(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

"(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

"(ii) shall supplement and avoid duplication with such State application; and

"(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

"(B) STATE REVIEW AND SUBMISSION.—To ensure the consistency required under subsection (d) and the coordination required under subparagraph (A) of this paragraph, an applicant that is a region must submit its application to each State of which any part is included in the region for review and concurrence prior to the submission of such application to the Secretary. The regional application shall be transmitted to the Secretary through each such State within 30 days of its receipt, unless the Governor of such a State notifies the Secretary, in writing, that such regional application is inconsistent with the State's homeland security plan and provides an explanation of the reasons therefor.

"(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application; *Provided* That, in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

"(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

"(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

"(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

"(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

"(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

"(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

"(6) TRIBAL APPLICATIONS.—

"(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

"(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

"(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

"(D) TRIBAL LIAISON.—A tribal liaison designated under paragraph (4)(G) shall—

"(i) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

"(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

"(iii) administer, in consultation with State, local, regional, and private officials, covered grants awarded to such tribe.

"(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

"(F) TRIBES NOT RECEIVING DIRECT GRANTS.—An Indian tribe that does not receive a grant directly under this section is eligible to receive funds under a covered grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State as described in subsection (c). If a State fails to comply with section 1806(g)(1), the tribe may request payment under section 1806(h)(3) in the same manner as a local government.

"(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary under section 1807(a), the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

"(f) FIRST RESPONDER GRANTS BOARD.—

"(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a First Responder Grants Board, consisting of—

"(A) the Secretary;

"(B) the Under Secretary for Emergency Preparedness and Response;

"(C) the Under Secretary for Border and Transportation Security;

"(D) the Under Secretary for Information Analysis and Infrastructure Protection;

"(E) the Under Secretary for Science and Technology; and

"(F) the Director of the Office for Domestic Preparedness.

"(2) CHAIRMAN.—

"(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

"(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

"(3) RANKING OF GRANT APPLICATIONS.—

"(A) PRIORITIZATION OF GRANTS.—The Board—

"(i) shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure; and

"(ii) in evaluating the threat to persons and critical infrastructure for purposes of prioritizing covered grants, shall give greater weight to threats of terrorism based on their specificity and credibility, including any pattern of repetition.

"(B) MINIMUM AMOUNTS.—After evaluating and prioritizing grant applications under subparagraph (A), the Board shall ensure that, for each fiscal year—

"(i) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under subsection (c)(1)(C);

"(ii) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under subparagraph (C) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under subsection (c)(1)(C);

"(iii) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each receives no less than 0.08 percent of the funds available for covered grants for that fiscal year for purposes of implementing its approved State homeland security plan in accordance with the prioritization of needs under subsection (c)(1)(C); and

"(iv) directly eligible tribes collectively receive no less than 0.08 percent of the funds available for covered grants for such fiscal year for purposes of addressing the needs identified in the applications of such tribes, consistent with the homeland security plan of each State within the boundaries of which any part of any such tribe is located, except that this clause shall not apply with respect to funds available for a fiscal year if the Secretary receives less than 5 applications for such fiscal year from such tribes under subsection (e)(6)(A) or does not approve at least one such application.

"(C) ADDITIONAL HIGH-RISK QUALIFYING CRITERIA.—For purposes of subparagraph (B)(ii), additional high-risk qualifying criteria consist of—

"(i) having a significant international land border; or

"(ii) adjoining a body of water within North America through which an international boundary line extends.

"(4) EFFECT OF REGIONAL AWARDS ON STATE MINIMUM.—Any regional award, or portion thereof, provided to a State under subsection (e)(5)(C) shall not be considered in calculating the minimum State award under paragraph (3)(B) of this subsection.

"(5) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in paragraph (1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.

"SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

"(a) IN GENERAL.—A covered grant may be used for—

"(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness and response;

"(2) exercises to strengthen terrorism preparedness and response;

"(3) training for prevention (including detection) of, preparedness for, or response to attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

"(4) developing or updating response plans;

"(5) establishing or enhancing mechanisms for sharing terrorism threat information;

"(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness and response purposes;

"(7) additional personnel costs resulting from—

"(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

"(B) travel to and participation in exercises and training in the use of equipment and on prevention activities; and

"(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;

"(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

"(9) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

"(A) $1,000,000 per project; or

"(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

"(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

"(11) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

"(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prepare for and respond to an act of terrorism;

"(13) paying of administrative expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant; and

"(14) other appropriate activities as determined by the Secretary.

"(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

"(1) to supplant State or local funds;

"(2) to construct buildings or other physical facilities;

"(3) to acquire land; or

"(4) for any State or local government cost sharing contribution.

"(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary under section 1803.

"(d) REIMBURSEMENT OF COSTS.—In addition to the activities described in subsection (a), a covered grant may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in training covered by this section. Any such reimbursement shall not be considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(e) ASSISTANCE REQUIREMENT.—The Secretary may not request that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

"(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

"(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

"(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

"(2) COST SHARING.—

"(A) IN GENERAL.—The Federal share of the costs of an activity carried out with a covered grant to a State, region, or directly eligible tribe awarded after the 2–year period beginning on the date of the enactment of this section shall not exceed 75 percent.

"(B) INTERIM RULE.—The Federal share of the costs of an activity carried out with a covered grant awarded before the end of the 2–year period beginning on the date of the enactment of this section shall be 100 percent.

"(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

"(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

"(4) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—The Federal share described in paragraph (2)(A) may be increased by up to 2 percent for any State, region, or directly eligible tribe that, not later than 30 days after the end of each fiscal quarter, submits to the Secretary a report on that fiscal quarter. Each such report must include, for each recipient of a covered grant or a pass-through under paragraph (1)—

"(A) the amount obligated to that recipient in that quarter;

"(B) the amount expended by that recipient in that quarter; and

"(C) a summary description of the items purchased by such recipient with such amount.

"(5) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

"(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

"(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

"(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

"(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

"(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

"(6) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (5) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

"(7) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (5) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

"(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

"(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (g)(1) within 45 days after receiving funds under the grant, the Secretary may—

"(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

"(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

"(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

"(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

"(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

"(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

"(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1805(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

"(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

"(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

"(ii) the State has failed to pass through funds or resources in accordance with subsection (g)(1); and

"(iii) the local government complies with subparagraphs (B) and (C).

"(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

"(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

"(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

"(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (g)(1); and

"(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

"(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

"(i) shall not affect any payment to another local government under this paragraph; and

"(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

"(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

"(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to the Congress by December 31 of each year—

"(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State, region, and directly eligible tribe in the preceding fiscal year;

"(2) containing information on the use of such grant funds by grantees; and

"(3) describing—

"(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established under section 1803(a) as a result of the expenditure of covered grant funds during the preceding fiscal year; and

"(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established under section 1803(a).

"SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

"(a) EQUIPMENT STANDARDS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

"(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

"(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

"(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

"(D) shall cover all appropriate uses of the equipment.

"(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

"(A) Thermal imaging equipment.

"(B) Radiation detection and analysis equipment.

"(C) Biological detection and analysis equipment.

"(D) Chemical detection and analysis equipment.

"(E) Decontamination and sterilization equipment.

"(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

"(G) Respiratory protection equipment.

"(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

"(I) Explosive mitigation devices and explosive detection and analysis equipment.

"(J) Containment vessels.

"(K) Contaminant-resistant vehicles.

"(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

"(b) TRAINING STANDARDS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

"(A) enable first responders to prevent, prepare for, respond to, and mitigate terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

"(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

"(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

"(A) Regional planning.

"(B) Joint exercises.

"(C) Intelligence collection, analysis, and sharing.

"(D) Emergency notification of affected populations.

"(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

"(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

"(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

"(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

"(1) the National Institute of Standards and Technology;

"(2) the National Fire Protection Association;

"(3) the National Association of County and City Health Officials;

"(4) the Association of State and Territorial Health Officials;

"(5) the American National Standards Institute;

"(6) the National Institute of Justice;

"(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

"(8) the National Public Health Performance Standards Program;

"(9) the National Institute for Occupational Safety and Health;

"(10) ASTM International;

"(11) the International Safety Equipment Association;

"(12) the Emergency Management Accreditation Program; and

"(13) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

"(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.".

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking "includes" and all that follows and inserting "includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.".

(c) TEMPORARY LIMITATIONS ON APPLICATION.—

(1) 1–YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as amended by subsection (a), shall not apply during the 1–year period beginning on the date of the enactment of this Act:

(A) Subsections (b), (c), and (e)(4)(A) and (B) of section 1805.

(B) In section 1805(f)(3)(A), the phrase ", by enhancing the essential capabilities of the applicants,".

(2) 2–YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as amended by subsection (a), shall not apply during the 2–year period beginning on the date of the enactment of this Act:

(A) Subparagraphs (D) and (E) of section 1806(g)(5).

(B) Section 1806(i)(3).

SEC. 5004. MODIFICATION OF HOMELAND SECURITY ADVISORY SYSTEM.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 121 et seq.) is amended by adding at the end the following:

"SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.

"(a) IN GENERAL.—The Secretary shall revise the Homeland Security Advisory System referred to in section 201(d)(7) to require that any designation of a threat level or other warning shall be accompanied by a designation of the geographic regions or economic sectors to which the designation applies.

"(b) REPORTS.—The Secretary shall report to the Congress annually by not later than December 31 each year regarding the geographic region-specific warnings and economic sector-specific warnings issued during the preceding fiscal year under the Homeland Security Advisory System referred to in section 201(d)(7), and the bases for such warnings. The report shall be submitted in unclassified form and may, as necessary, include a classified annex.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 202 the following:

"203. Homeland Security Advisory System.".

SEC. 5005. COORDINATION OF INDUSTRY EFFORTS.

Section 102(f) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by striking "and" after the semicolon at the end of para-

graph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following:

"(8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack.".

SEC. 5006. SUPERSEDED PROVISION.

This subtitle supersedes section 1014 of Public Law 107–56.

SEC. 5007. SENSE OF CONGRESS REGARDING INTEROPERABLE COMMUNICATIONS.

(a) FINDING.—The Congress finds that—

(1) many first responders working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and

(2) their inability to do so threatens the public's safety and may result in unnecessary loss of lives and property.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the first responder community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national, voluntary consensus standards for interoperability.

SEC. 5008. SENSE OF CONGRESS REGARDING CITIZEN CORPS COUNCILS.

(a) FINDING.—The Congress finds that Citizen Corps councils help to enhance local citizen participation in terrorism preparedness by coordinating multiple Citizen Corps programs, developing community action plans, assessing possible threats, and identifying local resources.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that individual Citizen Corps councils should seek to enhance the preparedness and response capabilities of all organizations participating in the councils, including by providing funding to as many of their participating organizations as practicable to promote local terrorism preparedness programs.

SEC. 5009. STUDY REGARDING NATIONWIDE EMERGENCY NOTIFICATION SYSTEM.

(a) STUDY.—The Secretary of Homeland Security, in consultation with the heads of other appropriate Federal agencies and representatives of providers and participants in the telecommunications industry, shall conduct a study to determine whether it is cost-effective, efficient, and feasible to establish and implement an emergency telephonic alert notification system that will—

(1) alert persons in the United States of imminent or current hazardous events caused by acts of terrorism; and

(2) provide information to individuals regarding appropriate measures that may be undertaken to alleviate or minimize threats to their safety and welfare posed by such events.

(b) TECHNOLOGIES TO CONSIDER.—In conducting the study, the Secretary shall consider the use of the telephone, wireless communications, and other existing communications networks to provide such notification.

(c) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report regarding the conclusions of the study.

SEC. 5010. REQUIRED COORDINATION.

The Secretary of Homeland Security shall ensure that there is effective and ongoing coordination of Federal efforts to prevent, prepare for, and respond to acts of terrorism and other major disasters and emergencies among the divisions of the Department of Homeland Security, including the Directorate of Emergency Preparedness and Response and the Office for State and Local Government Coordination and Preparedness.

Subtitle B—Restructuring Relating to the Department of Homeland Security and Congressional Oversight

SEC. 5021. RESPONSIBILITIES OF COUNTERNARCOTICS OFFICE.

(a) AMENDMENT.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended to read as follows:

"SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

"(a) OFFICE.—There shall be in the Department an Office of Counternarcotics Enforcement, which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate.

"(b) ASSIGNMENT OF PERSONNEL.—(1) The Secretary shall assign to the Office permanent staff and other appropriate personnel detailed from other subdivisions of the Department to carry out responsibilities under this section.

"(2) The Secretary shall designate senior employees from each appropriate subdivision of the Department that has significant counternarcotics responsibilities to act as a liaison between that subdivision and the Office of Counternarcotics Enforcement.

"(c) LIMITATION ON CONCURRENT EMPLOYMENT.—Except as provided in subsection (d), the Director of the Office of Counternarcotics Enforcement shall not be employed by, assigned to, or serve as the head of, any other branch of the Federal Government, any State or local government, or any subdivision of the Department other than the Office of Counternarcotics Enforcement.

"(d) ELIGIBILITY TO SERVE AS THE UNITED STATES INTERDICTION COORDINATOR.—The Director of the Office of Counternarcotics Enforcement may be appointed as the United States Interdiction Coordinator by the Director of the Office of National Drug Control Policy, and shall be the only person at the Department eligible to be so appointed.

"(e) RESPONSIBILITIES.—The Secretary shall direct the Director of the Office of Counternarcotics Enforcement—

"(1) to coordinate policy and operations within the Department, between the Department and other Federal departments and agencies, and between the Department and State and local agencies with respect to stopping the entry of illegal drugs into the United States;

"(2) to ensure the adequacy of resources within the Department for stopping the entry of illegal drugs into the United States;

"(3) to recommend the appropriate financial and personnel resources necessary to help the Department better fulfill its responsibility to stop the entry of illegal drugs into the United States;

"(4) to track and sever connections between illegal drug trafficking and terrorism; and

"(5) to be a representative of the Department on all task forces, committees, or other entities whose purpose is to coordinate the counternarcotics enforcement activities of the Department and other Federal, state or local agencies.

"(f) REPORTS TO CONGRESS.—

"(1) ANNUAL BUDGET REVIEW.—The Director of the Office of Counternarcotics Enforcement shall, not later than 30 days after the submission by the President to Congress of any request for expenditures for the Department, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of such request. The review and evaluation shall—

"(A) identify any request or subpart of any request that affects or may affect the counternarcotics activities of the Department or any of its subdivisions, or that affects the ability of the Department or any subdivision of the Department to meet its responsibility to stop the entry of illegal drugs into the United States;

"(B) describe with particularity how such requested funds would be or could be expended in furtherance of counternarcotics activities; and

"(C) compare such requests with requests for expenditures and amounts appropriated by Congress in the previous fiscal year.

"(2) EVALUATION OF COUNTERNARCOTICS ACTIVITIES.—The Director of the Office of Counternarcotics Enforcement shall, not later than February 1 of each year, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of the counternarcotics activities of the Department for the previous fiscal year. The review and evaluation shall—

"(A) describe the counternarcotics activities of the Department and each subdivision of the Department (whether individually or in cooperation with other subdivisions of the Department, or in cooperation with other branches of the Federal Government or with State or local agencies), including the methods, procedures, and systems (including computer systems) for collecting, analyzing, sharing, and disseminating information concerning narcotics activity within the Department and between the Department and other Federal, State, and local agencies;

"(B) describe the results of those activities, using quantifiable data whenever possible;

"(C) state whether those activities were sufficient to meet the responsibility of the Department to stop the entry of illegal drugs into the United States, including a description of the performance measures of effectiveness that were used in making that determination; and

"(D) recommend, where appropriate, changes to those activities to improve the performance of the Department in meeting its responsibility to stop the entry of illegal drugs into the United States.

"(3) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of a review and evaluation described in the reports required in this subsection that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Secretary, would be detrimental to the law enforcement or national security activities of the Department or any other Federal, State, or local agency, shall be presented to Congress separately from the rest of the review and evaluation.".

(b) CONFORMING AMENDMENT.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) A Director of the Office of Counternarcotics Enforcement.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts appropriated for the Department of Homeland Security for Departmental management and operations for fiscal year 2005, there is authorized up to $6,000,000 to carry out section 878 of the Department of Homeland Security Act of 2002 (as amended by this section).

SEC. 5022. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

(a) IN GENERAL.—Subtitle E of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 411 and following) is amended by adding at the end the following:

"SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

"(a) IN GENERAL.—Each subdivision of the Department that is a National Drug Control Program Agency shall include as one of the criteria in its performance appraisal system, for each employee directly or indirectly involved in the enforcement of Federal, State, or local narcotics laws, the performance of that employee with respect to the enforcement of Federal, State, or local narcotics laws, relying to the greatest extent practicable on objective performance measures, including—

"(1) the contribution of that employee to seizures of narcotics and arrests of violators of Federal, State, or local narcotics laws; and

"(2) the degree to which that employee cooperated with or contributed to the efforts of other employees, either within the Department or other Federal, State, or local agencies, in counternarcotics enforcement.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'National Drug Control Program Agency' means—

"(A) a National Drug Control Program Agency, as defined in section 702(7) of the Office of National Drug Control Policy Reauthorization Act of 1998 (as last in effect); and

"(B) any subdivision of the Department that has a significant counternarcotics responsibility, as determined by—

"(i) the counternarcotics officer, appointed under section 878; or

"(ii) if applicable, the counternarcotics officer's successor in function (as determined by the Secretary); and

"(2) the term 'performance appraisal system' means a system under which periodic appraisals of job performance of employees are made, whether under chapter 43 of title 5, United States Code, or otherwise.".

(b) CLERICAL AMENDMENT.—The table of contents for the Homeland Security Act of 2002 is amended by inserting after the item relating to section 842 the following:

"Sec. 843. Use of counternarcotics enforcement activities in certain employee performance appraisals.".

SEC. 5023. SENSE OF THE HOUSE OF REPRESENTATIVES ON ADDRESSING HOMELAND SECURITY FOR THE AMERICAN PEOPLE.

(a) FINDINGS.—The House of Representatives finds that—

(1) the House of Representatives created a Select Committee on Homeland Security at the start of the 108th Congress to provide for vigorous congressional oversight for the implementation and operation of the Department of Homeland Security;

(2) the House of Representatives also charged the Select Committee on Homeland Security, including its Subcommittee on Rules, with undertaking a thorough and complete study of the operation and implementation of the rules of

the House, including the rule governing committee jurisdiction, with respect to the issue of homeland security and to make their recommendations to the Committee on Rules;

(3) on February 11, 2003, the Committee on Appropriations of the House of Representatives created a new Subcommittee on Homeland Security with jurisdiction over the Transportation Security Administration, the Coast Guard, and other entities within the Department of Homeland Security to help address the integration of the Department of Homeland Security's 22 legacy agencies; and

(4) during the 108th Congress, the House of Representatives has taken several steps to help ensure its continuity in the event of a terrorist attack, including—

(A) adopting H.R. 2844, the Continuity of Representation Act, a bill to require States to hold expedited special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker in extraordinary circumstances;

(B) granting authority for joint-leadership recalls from a period of adjournment to an alternate place;

(C) allowing for anticipatory consent with the Senate to assemble in an alternate place;

(D) establishing the requirement that the Speaker submit to the Clerk a list of Members in the order in which each shall act as Speaker pro tempore in the case of a vacancy in the Office of Speaker (including physical inability of the Speaker to discharge his duties) until the election of a Speaker or a Speaker pro tempore, exercising such authorities of the Speaker as may be necessary and appropriate to that end;

(E) granting authority for the Speaker to declare an emergency recess of the House subject to the call of the Chair when notified of an imminent threat to the safety of the House;

(F) granting authority for the Speaker, during any recess or adjournment of not more than three days, in consultation with the Minority Leader, to postpone the time for reconvening or to reconvene before the time previously appointed solely to declare the House in recess, in each case within the constitutional three-day limit;

(G) establishing the authority for the Speaker to convene the House in an alternate place within the seat of Government; and

(H) codifying the long-standing practice that the death, resignation, expulsion, disqualification, or removal of a Member results in an adjustment of the quorum of the House, which the Speaker shall announce to the House and which shall not be subject to appeal.

(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that the Committee on Rules should act upon the recommendations provided by the Select Committee on Homeland Security, and other committees of existing jurisdiction, regarding the jurisdiction over proposed legislation, messages, petitions, memorials and other matters relating to homeland security prior to or at the start of the 109th Congress.

Subtitle C—Improvements to Information Security

SEC. 5031. AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting "security," after "use,";

(2) in section 11302(c), by inserting ", including information security risks," after "risks" both places it appears;

(3) in section 11312(b)(1), by striking "information technology investments" and inserting "investments in information technology (including information security needs)"; and

(4) in section 11315(b)(2), by inserting ", secure," after "sound".

Subtitle D—Personnel Management Improvements

CHAPTER 1—APPOINTMENTS PROCESS REFORM

SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY POSITIONS.

(a) DEFINITION OF NATIONAL SECURITY POSITION.—For purposes of this section, the term "national security position" shall include—

(1) those positions that involve activities of the United States Government that are concerned with the protection of the Nation from foreign aggression, terrorism, or espionage, including development of defense plans or policies, intelligence or counterintelligence activities, and related activities concerned with the preservation of military strength of the United States and protection of the homeland; and

(2) positions that require regular use of, or access to, classified information.

(b) PUBLICATION IN THE FEDERAL REGISTER.—Not later than 60 days after the effective date of this section, the Director of the Office of Personnel Management shall publish in the Federal Register a list of offices that constitute national security positions under section (a) for which Senate confirmation is required by law, and the Director shall revise such list from time to time as appropriate.

(c) PRESIDENTIAL APPOINTMENTS.—(1) With respect to appointment of individuals to offices identified under section (b) and listed in sections 5315 or 5316 of title 5, United States Code, which shall arise after the publication of the list required by section (b), and notwithstanding any other provision of law, the advice and consent of the Senate shall not be required, but rather such appointment shall be made by the President alone.

(2) With respect to appointment of individuals to offices identified under section (b) and listed in sections 5313 or 5314 of title 5, United States Code, which shall arise after the publication of the list required by section (b), and notwithstanding any other provision of law, the advice and consent of the Senate shall be required, except that if 30 legislative days shall have expired from the date on which a nomination is submitted to the Senate without a confirmation vote occurring in the Senate, such appointment shall be made by the President alone.

(3) For the purposes of this subsection, the term "legislative day" means a day on which the Senate is in session.

SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.

Subsections (a) and (b) of section 3349a of title 5, United States Code, are amended to read as follows:

"(a) As used in this section—

"(1) the term 'inauguration day' means the date on which any person swears or affirms the oath of office as President; and

"(2) the term 'specified national security position' shall mean not more than 20 positions requiring Senate confirmation, not to include more than 3 heads of Executive Departments, which are designated by the President on or after an inauguration day as positions for which the duties involve substantial responsibility for national security.

"(b) With respect to any vacancy that exists during the 60–day period beginning on an inauguration day, except where the person swearing or affirming the oath of office was the President on the date preceding the date of swearing or affirming such oath of office, the 210–day period under section 3346 or 3348 shall be deemed to begin on the later of the date occurring—

"(1) 90 days after such transitional inauguration day; or

"(2) 90 days after the date on which the vacancy occurs.

"(c) With respect to any vacancy in any specified national security position that exists during the 60–day period beginning on an inauguration day, the requirements of subparagraphs (A) and (B) of section 3345(a)(3) shall not apply.".

SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by inserting before title IV the following:

"TITLE III—INTELLIGENCE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

"SEC. 301. PERSONS REQUIRED TO FILE.

"(a) Within 30 days of assuming the position of an officer or employee described in subsection (e), an individual shall file a report containing the information de-

scribed in section 302(b) unless the individual has left another position described in subsection (e) within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

"(b)(1) Within 5 days of the transmittal by the President to the Senate of the nomination of an individual to a position in the executive branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 302(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 302(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

"(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

"(c) Any individual who is an officer or employee described in subsection (e) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 302(a).

"(d) Any individual who occupies a position described in subsection (e) shall, on or before the 30th day after termination of employment in such position, file a report containing the information described in section 302(a) covering the preceding calendar year if the report required by subsection (c) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in or takes the oath of office for another position described in subsection (e) or section 101(f).

"(e) The officers and employees referred to in subsections (a), (c), and (d) are those employed in or under—

"(1) the Office of the National Intelligence Director; or

"(2) an element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

"(f)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Office of Government Ethics, but the total of such extensions shall not exceed 90 days.

"(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

"(i) the last day of the individual's service in such area during such designated period; or

"(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

"(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

"(g) The Director of the Office of Government Ethics may grant a publicly available request for a waiver of any reporting requirement under this title with respect to an individual if the Director determines that—

"(1) such individual is not a full-time employee of the Government;

"(2) such individual is able to provide special services needed by the Government;

"(3) it is unlikely that such individual's outside employment or financial interests will create a conflict of interest; and

"(4) public financial disclosure by such individual is not necessary in the circumstances.

"(h)(1) The Director of the Office of Government Ethics may establish procedures under which an incoming individual can take actions to avoid conflicts of interest while in office if the individual has holdings or other financial interests that raise conflict concerns.

"(2) The actions referenced in paragraph (1) may include, but are not limited to, signed agreements with the individual's employing agency, the establishment of blind trusts, or requirements for divesting interests or holdings while in office.

"SEC. 302. CONTENTS OF REPORTS.

"(a) Each report filed pursuant to section 301 (c) and (d) shall include a full and complete statement with respect to the following:

"(1)(A) The source, description, and category of value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), received during the preceding calendar year, aggregating more than $500 in value, except that honoraria received during Government service by an officer or employee shall include, in addition to the source, the exact amount and the date it was received.

"(B) The source and description of investment income which may include but is not limited to dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $500 in amount or value.

"(C) The categories for reporting the amount for income covered in subparagraphs (A) and (B) are—

"(i) greater than $500 but not more than $20,000;

"(ii) greater than $20,000 but not more than $100,000;

"(iii) greater than $100,000 but not more than $1,000,000;

"(iv) greater than $1,000,000 but not more than $2,500,000; and

"(v) greater than $2,500,000.

"(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

"(B) The identity of the source and a brief description (including dates of travel and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

"(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $5,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposit accounts aggregating $100,000 or less in a financial institution, or any Federal Government securities aggregating $100,000 or less.

"(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $20,000 at any time during the preceding calendar year, excluding—

"(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

"(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $20,000 as of the close of the preceding calendar year need be reported under this paragraph. Notwithstanding the preceding sentence, individuals required to file pursuant to section 301(b) shall also report the aggregate sum of the outstanding balances of all revolving charge accounts as of any date that is within 30 days of the date of filing if the aggregate sum of those balances exceeds $20,000.

"(5) Except as provided in this paragraph, a brief description of any real property, other than property used solely as a personal residence of the reporting individual or his spouse, or stocks, bonds, commodities futures, and other forms of securities, if—

"(A) purchased, sold, or exchanged during the preceding calendar year;

"(B) the value of the transaction exceeded $5,000; and

"(C) the property or security is not already required to be reported as a source of income pursuant to paragraph (1)(B) or as an asset pursuant to paragraph (3).

"(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 1–year period preceding such calendar year) as an officer, director, trustee,

partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States Government. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

"(B) If any person, other than a person reported as a source of income under paragraph (1)(A) or the United States Government, paid a nonelected reporting individual compensation in excess of $25,000 in the calendar year in which, or the calendar year prior to the calendar year in which, the individual files his first report under this title, the individual shall include in the report—

"(i) the identity of each source of such compensation; and

"(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person or any information which the person for whom the services are provided has a reasonable expectation of privacy, nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

"(7) A description of parties to and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer. The description of any formal agreement for future employment shall include the date on which that agreement was entered into.

"(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust.

"(b)(1) Each report filed pursuant to subsections (a) and (b) of section 301 shall include a full and complete statement with respect to the information required by—

"(A) paragraphs (1) and (6) of subsection (a) for the year of filing and the preceding calendar year,

"(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

"(C) paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraph.

"(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the Office of Government Ethics or pursuant to a specific written determination by the Director of the Office of Government Ethics for a reporting individual.

"(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

"(c)(1) In the case of any individual referred to in section 301(c), the Office of Government Ethics may by regulation require a reporting period to include any period in which the individual served as an officer or employee described in section 301(e) and the period would not otherwise be covered by any public report filed pursuant to this title.

"(2) In the case of any individual referred to in section 301(d), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

"(d)(1) The categories for reporting the amount or value of the items covered in subsection (a)(3) are—

"(A) greater than $5,000 but not more than $15,000;

"(B) greater than $15,000 but not more than $100,000;

"(C) greater than $100,000 but not more than $1,000,000;

"(D) greater than $1,000,000 but not more than $2,500,000; and

"(E) greater than $2,500,000.

"(2) For the purposes of subsection (a)(3) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete descrip-

tion of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1). If the current value of any other item required to be reported under subsection (a)(3) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

"(3) The categories for reporting the amount or value of the items covered in paragraphs (4) and (8) of subsection (a) are—

"(A) greater than $20,000 but not more than $100,000;

"(B) greater than $100,000 but not more than $500,000;

"(C) greater than $500,000 but not more than $1,000,000; and

"(D) greater than $1,000,000.

"(e)(1) Except as provided in subparagraph (F), each report required by section 301 shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse or dependent child of the reporting individual as follows:

"(A) The sources of earned income earned by a spouse including honoraria which exceed $500 except that, with respect to earned income if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

"(B) All information required to be reported in subsection (a)(1)(B) with respect to investment income derived by a spouse or dependent child.

"(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

"(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

"(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items which the reporting individual certifies (i) represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) that he neither derives, nor expects to derive, any financial or economic benefit.

"(F) Reports required by subsections (a), (b), and (c) of section 301 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a).

"(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation, or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

"(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

"(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

"(A) any qualified blind trust (as defined in paragraph (3));

"(B) a trust—

"(i) which was not created directly by such individual, his spouse, or any dependent child, and

"(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge; or

"(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the entity under subsection (a)(1)(B).

"(3) For purposes of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

"(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

"(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

"(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

"(III) is not a relative of any interested party.

"(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

"(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

"(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

"(III) is not a relative of any interested party.

"(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Office of Government Ethics.

"(C) The trust instrument which establishes the trust provides that—

"(i) except to the extent provided in subparagraph (B), the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

"(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

"(iii) the trustee shall promptly notify the reporting individual and the Office of Government Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

"(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

"(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

"(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

"(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

"(D) The proposed trust instrument and the proposed trustee is approved by the Office of Government Ethics.

"(E) For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning

set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

"(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

"(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the Office of Government Ethics finds that—

"(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

"(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

"(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv), from making public or informing any interested party of the sale of any securities;

"(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v), to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

"(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

"(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

"(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by the Office of Government Ethics, file with such office a copy of—

"(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

"(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d).

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7).

"(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Office of Government Ethics of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

"(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall notify the Office of Government Ethics of such dissolution.

"(D) Documents filed under subparagraphs (A), (B), and (C) and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 305 and the provisions of that section shall apply with respect to such documents and lists.

"(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the Office of Government Ethics within 5 days of the date of the communication.

"(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3); (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) or the trust agreement; or (iv) fail to file any document required by this subsection.

"(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) or (ii) fail to file any document required by this subsection.

"(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B). The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

"(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B). The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

"(7) Any trust may be considered to be a qualified blind trust if—

"(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

"(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the Office of Government Ethics, including the category of value of each asset as determined under subsection (d), are filed with such office and made available to the public as provided under paragraph (5)(D); and

"(C) the Director of the Office of Government Ethics determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

"(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

"(A)(i) the fund is publicly traded; or

"(ii) the assets of the fund are widely diversified; and

"(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

"(9)(A)(i) A reporting individual described in subsection (a) or (b) of section 301 shall not be required to report the holdings or sources of income of any trust or investment fund where—

"(I) reporting would result in the disclosure of assets or sources of income of another person whose interests are not required to be reported by the reporting individual under this title;

"(II) the disclosure of such assets and sources of income is prohibited by contract or the assets and sources of income are not otherwise publicly available; and

"(III) the reporting individual has executed a written ethics agreement which contains a general description of the trust or investment fund and a commitment to divest the interest in the trust or investment fund not later than 90 days after the date of the agreement.

"(ii) An agreement described under clause (i)(III) shall be attached to the public financial disclosure which would otherwise include a listing of the holdings or sources of income from this trust or investment fund.

"(B)(i) The provisions of subparagraph (A) shall apply to an individual described in subsection (c) or (d) of section 301 if—

"(I) the interest in the trust or investment fund is acquired involuntarily during the period to be covered by the report, such as through marriage or inheritance, and

"(II) for an individual described in subsection (c), the individual executes a written ethics agreement containing a commitment to divest the interest no later than 90 days after the date on which the report is due.

"(ii) An agreement described under clause (i)(II) shall be attached to the public financial disclosure which would otherwise include a listing of the holdings or sources of income from this trust or investment fund.

"(iii) Failure to divest within the time specified or after an extension granted by the Director of the Office of Government Ethics for good cause shown shall result in an immediate requirement to report as specified in paragraph (1).

"(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

"(h) A report filed pursuant to subsection (a), (c), or (d) of section 301 need not contain the information described in subparagraphs (A), (B), and (C) of subsection

(a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

"(i) A reporting individual shall not be required under this title to report—

"(1) financial interests in or income derived from—

"(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

"(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

"(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

"(j)(1) Every month, each designated agency ethics officer shall submit to the Office of Government Ethics notification of any waiver of criminal conflict of interest laws granted to any individual in the preceding month with respect to a filing under this title that is not confidential.

"(2) Every month, the Office of Government Ethics shall make publicly available on the Internet—

"(A) all notifications of waivers submitted under paragraph (1) in the preceding month; and

"(B) notification of all waivers granted by the Office of Government Ethics in the preceding month.

"(k) A full copy of any waiver of criminal conflict of interest laws granted shall be included with any filing required under this title with respect to the year in which the waiver is granted.

"(l) The Office of Government Ethics shall provide upon request any waiver on file for which notice has been published.

"SEC. 303. FILING OF REPORTS.

"(a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 301(d), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

"(b) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

"(c) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

"(d) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

"SEC. 304. FAILURE TO FILE OR FILING FALSE REPORTS.

"(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 302. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000.

"(b) The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as the case may be, shall refer to the Attorney General the name of any individual which such official has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

"(c) The President, the Vice President, the Secretary concerned, or the head of each agency may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

"(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

"(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

"(B) if a filing extension is granted to such individual under section 301(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the Office of Government Ethics, pay a filing fee of $500. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the Office of Government Ethics to other agencies in the executive branch.

"(2) The Office of Government Ethics may waive the filing fee under this subsection for good cause shown.

"SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

"Any report filed with or transmitted to an agency or the Office of Government Ethics pursuant to this title shall be retained by such agency or Office, as the case may be, for a period of 6 years after receipt of the report. After such 6–year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 301(b) and was not subsequently confirmed by the Senate, such reports shall be destroyed 1 year after the individual is no longer under consideration by the Senate, unless needed in an ongoing investigation.

"SEC. 306. REVIEW OF REPORTS.

"(a) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within 60 days after the date of transmittal.

"(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

"(2) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official after reviewing any report under subsection (a)—

"(A) believes additional information is required to be submitted to complete the form or to perform a conflict of interest analysis, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

"(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

"(3) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

"(A) divestiture,

"(B) restitution,

"(C) the establishment of a blind trust,

"(D) request for an exemption under section 208(b) of title 18, United States Code, or

"(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the Office of Government Ethics may prescribe.

"(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

"(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency for appropriate action.

"(6) The Office of Government Ethics may render advisory opinions interpreting this title. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

"SEC. 307. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

"(a)(1) The Office of Government Ethics may require officers and employees of the executive branch (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as it may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency listed in section 301(e) shall be set forth in rules or regulations prescribed by the Office of Government Ethics, and may be less extensive than otherwise required by this title, or more extensive when determined by the Office of Government Ethics to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 301 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Section 305 shall not apply with respect to any such report.

"(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

"(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

"(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

"(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

"SEC. 308. AUTHORITY OF COMPTROLLER GENERAL.

"The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

"SEC. 309. DEFINITIONS.

"For the purposes of this title—

"(1) the term 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

"(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

"(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

"(2) the term 'designated agency ethics official' means an officer or employee who is designated to administer the provisions of this title within an agency;

"(3) the term 'executive branch' includes—

"(A) each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office; and

"(B) any other entity or administrative unit in the executive branch;

"(4) the term 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

"(A) bequests and other forms of inheritance;

"(B) suitable mementos of a function honoring the reporting individual;

"(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

"(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

"(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

"(F) items that are accepted pursuant to or are required to be reported by the reporting individual under section 7342 of title 5, United States Code.

"(5) the term 'honorarium' means a payment of money or anything of value for an appearance, speech, or article;

"(6) the term 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and

net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; prizes and awards; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

"(7) the term 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

"(8) the term 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

"(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

"(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

"(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

"(9) the term 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiancé or fiancée of the reporting individual;

"(10) the term 'Secretary concerned' has the meaning set forth in section 101(a)(9) of title 10, United States Code; and

"(11) the term 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

"SEC. 310. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

"(a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, or a Senate confirmation committee, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, or the appropriate committee of the Senate, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified. If all actions agreed to have not been completed by the date of this notification, such notification shall continue on a monthly basis thereafter until the individual has met the terms of the agreement.

"(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the Office of Government Ethics within the time prescribed in the penultimate sentence of subsection (a).

"SEC. 311. ADMINISTRATION OF PROVISIONS.

"The Office of Government Ethics shall issue regulations, develop forms, and provide such guidance as is necessary to implement and interpret this title.".

(b) EXEMPTION FROM PUBLIC ACCESS TO FINANCIAL DISCLOSURES.—Section 105(a)(1) of such Act is amended by inserting "the Office of the National Intelligence Director," before "the Central Intelligence Agency".

(c) CONFORMING AMENDMENT.—Section 101(f) of such Act is amended—

(1) in paragraph (12), by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following:

"but do not include any officer or employee of any department or agency listed in section 301(e).".

SEC. 5044. REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.

(a) DEFINITION.—In this section, the term "agency" means an Executive agency, as defined under section 105 of title 5, United States Code.

(b) REDUCTION PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate; and

(C) the Committee on Government Reform of the House of Representatives.

(2) CONTENT.—The plan under this subsection shall provide for the reduction of—

(A) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(B) the number of levels of such positions within that agency.

SEC. 5045. EFFECTIVE DATES.

(a) SECTION 5043.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 5043 shall take effect on January 1 of the year following the year in which occurs the date of enactment of this Act.

(2) LATER DATE.—If this Act is enacted on or after July 1 of a year, the amendments made by section 301 shall take effect on July 1 of the following year.

(b) SECTION 5044.—Section 5044 shall take effect on the date of enactment of this Act.

CHAPTER 2—FEDERAL BUREAU OF INVESTIGATION REVITALIZATION

SEC. 5051. MANDATORY SEPARATION AGE.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(b) of title 5, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) In the case of employees of the Federal Bureau of Investigation, the second sentence of paragraph (1) shall be applied by substituting '65 years of age' for '60 years of age'. The authority to grant exemptions in accordance with the preceding sentence shall cease to be available after December 31, 2009.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(b) of title 5, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) In the case of employees of the Federal Bureau of Investigation, the second sentence of paragraph (1) shall be applied by substituting '65 years of age' for '60 years of age'. The authority to grant exemptions in accordance with the preceding sentence shall cease to be available after December 31, 2009.".

SEC. 5052. RETENTION AND RELOCATION BONUSES.

(a) IN GENERAL.—Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"§ 5759. Retention and relocation bonuses for the Federal Bureau of Investigation

"(a) AUTHORITY.—The Director of the Federal Bureau of Investigation, after consultation with the Director of the Office of Personnel Management, may pay, on a case-by-case basis, a bonus under this section to an employee of the Bureau if—

"(1)(A) the unusually high or unique qualifications of the employee or a special need of the Bureau for the employee's services makes it essential to retain the employee; and

"(B) the Director of the Federal Bureau of Investigation determines that, in the absence of such a bonus, the employee would be likely to leave—

"(i) the Federal service; or

"(ii) for a different position in the Federal service; or

"(2) the individual is transferred to a different geographic area with a higher cost of living (as determined by the Director of the Federal Bureau of Investigation).

"(b) SERVICE AGREEMENT.—Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Bureau to complete a period of service with the Bureau. Such agreement shall include—

"(1) the period of service the individual shall be required to complete in return for the bonus; and

"(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

"(c) LIMITATION ON AUTHORITY.—A bonus paid under this section may not exceed 50 percent of the employee's basic pay.

"(d) IMPACT ON BASIC PAY.—A retention bonus is not part of the basic pay of an employee for any purpose.

"(e) TERMINATION OF AUTHORITY.—The authority to grant bonuses under this section shall cease to be available after December 31, 2009.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"5759. Retention and relocation bonuses for the Federal Bureau of Investigation.".

SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RESERVE SERVICE.

(a) IN GENERAL.—Chapter 35 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VII—RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE FEDERAL BUREAU OF INVESTIGATION

"§ 3598. Federal Bureau of Investigation Reserve Service

"(a) ESTABLISHMENT.—The Director of the Federal Bureau of Investigation may provide for the establishment and training of a Federal Bureau of Investigation Reserve Service (hereinafter in this section referred to as the 'FBI Reserve Service') for temporary reemployment of employees in the Bureau during periods of emergency, as determined by the Director.

"(b) MEMBERSHIP.—Membership in the FBI Reserve Service shall be limited to individuals who previously served as full-time employees of the Bureau.

"(c) ANNUITANTS.—If an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service becomes temporarily reemployed pursuant to this section, such annuity shall not be discontinued thereby. An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84.

"(d) NO IMPACT ON BUREAU PERSONNEL CEILING.—FBI Reserve Service members reemployed on a temporary basis pursuant to this section shall not count against any personnel ceiling applicable to the Bureau.

"(e) EXPENSES.—The Director may provide members of the FBI Reserve Service transportation and per diem in lieu of subsistence, in accordance with applicable provisions of this title, for the purpose of participating in any training that relates to service as a member of the FBI Reserve Service.

"(f) LIMITATION ON MEMBERSHIP.—Membership of the FBI Reserve Service is not to exceed 500 members at any given time.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 35 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VII—RETENTION OF RETIRED SPECIALIZED EMPLOYEES AT THE FEDERAL BUREAU OF INVESTIGATION

"3598. Federal Bureau of Investigation Reserve Service.".

SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE DIRECTORATE.

Section 5377(a)(2) of title 5, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by inserting after subparagraph (F) the following:

"(G) a position at the Federal Bureau of Investigation, the primary duties and responsibilities of which relate to intelligence functions (as determined by the Director of the Federal Bureau of Investigation).".

CHAPTER 3—MANAGEMENT AUTHORITY

SEC. 5061. MANAGEMENT AUTHORITY.

(a) MANAGEMENT AUTHORITY.—Section 7103(b)(1)(A) of title 5, United States Code, is amended by adding "homeland security," after "investigative,".

(b) EXCLUSIONARY AUTHORITY.—Section 842 of the Homeland Security Act (Public Law 107–296; 6 U.S.C. 412) is repealed.

Subtitle E—Security Clearance Modernization

SEC. 5071. DEFINITIONS.

In this subtitle:

(1) The term "Director" means the National Intelligence Director.

(2) The term "agency" means—

(A) an executive agency, as defined in section 105 of title 5, United States Code;

(B) a military department, as defined in section 102 of title 5, United States Code; and

(C) elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "authorized investigative agency" means an agency authorized by law, regulation or direction of the Director to conduct a counterintelligence investigation or investigation of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(4) The term "authorized adjudicative agency" means an agency authorized by law, regulation or direction of the Director to determine eligibility for access to classified information in accordance with Executive Order 12968.

(5) The term "highly sensitive program" means—

(A) a government program designated as a Special Access Program (as defined by section 4.1(h) of Executive Order 12958); and

(B) a government program that applies restrictions required for—

(i) Restricted Data (as defined by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)); or

(ii) other information commonly referred to as "Sensitive Compartmented Information".

(6) The term "current investigation file" means, with respect to a security clearance, a file on an investigation or adjudication that has been conducted during—

(A) the 5–year period beginning on the date the security clearance was granted, in the case of a Top Secret Clearance, or the date access was granted to a highly sensitive program;

(B) the 10–year period beginning on the date the security clearance was granted in the case of a Secret Clearance; and

(C) the 15–year period beginning on the date the security clearance was granted in the case of a Confidential Clearance.

(7) The term "personnel security investigation" means any investigation required for the purpose of determining the eligibility of any military, civilian, or government contractor personnel to access classified information.

(8) The term "periodic reinvestigations" means—

(A) investigations conducted for the purpose of updating a previously completed background investigation—

(i) every five years in the case of a Top Secret Clearance or access to a highly sensitive program;

(ii) every 10 years in the case of a Secret Clearance; and

(iii) every 15 years in the case of a Confidential Clearance;

(B) on-going investigations to identify personnel security risks as they develop, pursuant to section 105(c).

(9) The term "appropriate committees of Congress" means—

(A) the Permanent Select Committee on Intelligence and the Committees on Armed Services, Judiciary, and Government Reform of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committees on Armed Services, Judiciary, and Governmental Affairs of the Senate.

SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE PROGRAMS OVERSIGHT AND ADMINISTRATION.

The Deputy National Intelligence Director for Community Management and Resources shall have responsibility for the following:

(1) Directing day-to-day oversight of investigations and adjudications for personnel security clearances to highly sensitive programs throughout the Federal Government.

(2) Developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of security clearances and determinations for access to highly sensitive programs, including the standardization of security questionnaires, financial disclosure requirements for security clearance applicants, and polygraph policies and procedures.

(3) Serving as the final authority to designate an authorized investigative agency or authorized adjudicative agency pursuant to section 5074(d).

(4) Ensuring reciprocal recognition of access to classified information among agencies, including acting as the final authority to arbitrate and resolve disputes involving the reciprocity of security clearances and access to highly sensitive programs.

(5) Ensuring, to the maximum extent practicable, that sufficient resources are available in each agency to achieve clearance and investigative program goals.

(6) Reviewing and coordinating the development of tools and techniques for enhancing the conduct of investigations and granting of clearances.

SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND ACCESS DETERMINATIONS.

(a) REQUIREMENT FOR RECIPROCITY.—(1) All security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency shall be accepted by all agencies.

(2) All security clearance background investigations initiated by an authorized investigative agency shall be transferable to any other authorized investigative agency.

(b) PROHIBITION ON ESTABLISHING ADDITIONAL REQUIREMENTS.—(1) An authorized investigative agency or authorized adjudicative agency may not establish additional investigative or adjudicative requirements (other than requirements for the conduct of a polygraph examination) that exceed requirements specified in Executive Orders establishing security requirements for access to classified information.

(2) Notwithstanding the paragraph (1), the Director may establish additional requirements as needed for national security purposes.

(c) PROHIBITION ON DUPLICATIVE INVESTIGATIONS.—An authorized investigative agency or authorized adjudicative agency may not conduct an investigation for purposes of determining whether to grant a security clearance to an individual where a current investigation or clearance of equal level already exists or has been granted by another authorized adjudicative agency.

SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE .

(a) ESTABLISHMENT.—Not later than 12 months after the date of the enactment of this Act, the Director of the Office of Personnel Management, in cooperation with the Director, shall establish, and begin operating and maintaining, an integrated, secure, national database into which appropriate data relevant to the granting, denial, or revocation of a security clearance or access pertaining to military, civilian, or government contractor personnel shall be entered from all authorized investigative and adjudicative agencies.

(b) INTEGRATION.—The national database established under subsection (a) shall function to integrate information from existing Federal clearance tracking systems from other authorized investigative and adjudicative agencies into a single consolidated database.

(c) REQUIREMENT TO CHECK DATABASE.—Each authorized investigative or adjudicative agency shall check the national database established under subsection (a) to determine whether an individual the agency has identified as requiring a security clearance has already been granted or denied a security clearance, or has had a security clearance revoked, by any other authorized investigative or adjudicative agency.

(d) CERTIFICATION OF AUTHORIZED INVESTIGATIVE AGENCIES OR AUTHORIZED ADJUDICATIVE AGENCIES.—The Director shall evaluate the extent to which an agency is submitting information to, and requesting information from, the national database established under subsection (a) as part of a determination of whether to certify the agency as an authorized investigative agency or authorized adjudicative agency.

(e) EXCLUSION OF CERTAIN INTELLIGENCE OPERATIVES.—The Director may authorize an agency to withhold information about certain individuals from the database established under subsection (a) if the Director determines it is necessary for national security purposes.

(f) COMPLIANCE.—The Director shall establish a review procedure by which agencies can seek review of actions required under section 5073.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year for the implementation, maintenance and operation of the database established in subsection (a).

SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEARANCE INVESTIGATIONS.

(a) INVESTIGATIONS.—Not later than 12 months after the date of the enactment of this Act, each authorized investigative agency that conducts personnel security clearance investigations shall use, to the maximum extent practicable, available information technology and databases to expedite investigative processes and to verify standard information submitted as part of an application for a security clearance.

(b) INTERIM CLEARANCE.—If the application of an applicant for an interim clearance has been processed using the technology under subsection (a), the interim clearances for the applicant at the secret, top secret, and special access program levels may be granted before the completion of the appropriate investigation. Any request to process an interim clearance shall be given priority, and the authority granting the interim clearance shall ensure that final adjudication on the application is made within 90 days after the initial clearance is granted.

(c) ON-GOING MONITORING OF INDIVIDUALS WITH SECURITY CLEARANCES.—(1) Authorized investigative agencies and authorized adjudicative agencies shall establish procedures for the regular, ongoing verification of personnel with security clearances in effect for continued access to classified information. Such procedures shall include the use of available technology to detect, on a regularly recurring basis, any issues of concern that may arise involving such personnel and such access.

(2) Such regularly recurring verification may be used as a basis for terminating a security clearance or access and shall be used in periodic reinvestigations to address emerging threats and adverse events associated with individuals with security clearances in effect to the maximum extent practicable.

(3) If the Director certifies that the national security of the United States is not harmed by the discontinuation of periodic reinvestigations, the regularly recurring verification under this section may replace periodic reinvestigations.

SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECURITY CLEARANCE PROCESS.

(a) 60–DAY PERIOD FOR DETERMINATION ON CLEARANCES.—Each authorized adjudicative agency shall make a determination on an application for a personnel security clearance within 60 days after the date of receipt of the completed application for a security clearance by an authorized investigative agency. The 60–day period shall include—

(1) a period of not longer than 40 days to complete the investigative phase of the clearance review; and

(2) a period of not longer than 20 days to complete the adjudicative phase of the clearance review.

(b) EFFECTIVE DATE AND PHASE-IN.—

(1) EFFECTIVE DATE.—Subsection (a) shall take effect 5 years after the date of the enactment of this Act.

(2) PHASE-IN.—During the period beginning on a date not later than 2 years after the date after the enactment of this Act and ending on the date on which subsection (a) takes effect as specified in paragraph (1), each authorized adjudicative agency shall make a determination on an application for a personnel security clearance pursuant to this title within 120 days after the date of receipt of the application for a security clearance by an authorized investigative agency. The 120–day period shall include—

(A) a period of not longer than 90 days to complete the investigative phase of the clearance review; and

(B) a period of not longer than 30 days to complete the adjudicative phase of the clearance review.

SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL TRANSITION.

(a) CANDIDATES FOR NATIONAL SECURITY POSITIONS.—(1) The President-elect shall submit to the Director the names of candidates for high-level national security positions, for positions at the level of under secretary of executive departments and above, as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

(2) The Director shall be responsible for the expeditious completion of the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.

(b) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—(1) In this section, the term "major party" has the meaning provided under section 9002(6) of the Internal Revenue Code of 1986.

(2) Each major party candidate for President, except a candidate who is the incumbent President, shall submit, before the date of the general presidential election, requests for security clearances for prospective transition team members who will

have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general presidential election.

SEC. 5078. REPORTS.

Not later than February 15, 2006, and annually thereafter through 2016, the Director shall submit to the appropriate committees of Congress a report on the progress made during the preceding year toward meeting the requirements specified in this Act. The report shall include—

(1) the periods of time required by the authorized investigative agencies and authorized adjudicative agencies during the year covered by the report for conducting investigations, adjudicating cases, and granting clearances, from date of submission to ultimate disposition and notification to the subject and the subject's employer;

(2) a discussion of any impediments to the smooth and timely functioning of the implementation of this title; and

(3) such other information or recommendations as the Deputy Director deems appropriate.

Subtitle F—Emergency Financial Preparedness

SEC. 5081. DELEGATION AUTHORITY OF THE SECRETARY OF THE TREASURY.

Subsection (d) of section 306 of title 31, United States Code, is amended by inserting "or employee" after "another officer".

SEC. 5082. EXTENSION OF EMERGENCY ORDER AUTHORITY OF THE SECURITIES AND EXCHANGE COMMISSION.

(a) EXTENSION OF AUTHORITY.—Paragraph (2) of section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)(2)) is amended to read as follows:

"(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under the securities laws, as the Commission determines is necessary in the public interest and for the protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities);

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities); or

"(iii) to reduce, eliminate, or prevent the substantial disruption by the emergency of (I) securities markets (other than markets in exempted securities), investment companies, or any other significant portion or segment of such markets, or (II) the transmission or processing of securities transactions (other than transactions in exempted securities).

"(B) An order of the Commission under this paragraph (2) shall continue in effect for the period specified by the Commission, and may be extended. Except as provided in subparagraph (C), the Commission's action may not continue in effect for more than 30 business days, including extensions.

"(C) An order of the Commission under this paragraph (2) may be extended to continue in effect for more than 30 business days if, at the time of the extension, the Commission finds that the emergency still exists and determines that the continuation of the order beyond 30 business days is necessary in the public interest and for the protection of investors to attain an objective described in clause (i), (ii), or (iii) of subparagraph (A). In no event shall an order of the Commission under this paragraph (2) continue in effect for more than 90 calendar days.

"(D) If the actions described in subparagraph (A) involve a security futures product, the Commission shall consult with and consider the views of the Commodity Futures Trading Commission. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

"(E) Notwithstanding the exclusion of exempted securities (and markets therein) from the Commission's authority under subparagraph (A), the Commission may use such authority to take action to alter, supplement, suspend, or im-

pose requirements or restrictions with respect to clearing agencies for transactions in such exempted securities. In taking any action under this subparagraph, the Commission shall consult with and consider the views of the Secretary of the Treasury.".

(b) CONSULTATION; DEFINITION OF EMERGENCY.—Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(k)) is further amended by striking paragraph (6) and inserting the following:

"(6) CONSULTATION.—Prior to taking any action described in paragraph (1)(B), the Commission shall consult with and consider the views of the Secretary of the Treasury, Board of Governors of the Federal Reserve System, and the Commodity Futures Trading Commission, unless such consultation is impracticable in light of the emergency.

"(7) DEFINITIONS.—

"(A) EMERGENCY.—For purposes of this subsection, the term 'emergency' means—

"(i) a major market disturbance characterized by or constituting—

"(I) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or

"(II) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or

"(ii) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

"(I) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or

"(II) the transmission or processing of securities transactions.

"(B) SECURITIES LAWS.—Notwithstanding section 3(a)(47), for purposes of this subsection, the term 'securities laws' does not include the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.).".

SEC. 5083. PARALLEL AUTHORITY OF THE SECRETARY OF THE TREASURY WITH RESPECT TO GOVERNMENT SECURITIES.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–5) is amended by adding at the end the following new subsection:

"(h) EMERGENCY AUTHORITY.—The Secretary may by order take any action with respect to a matter or action subject to regulation by the Secretary under this section, or the rules of the Secretary thereunder, involving a government security or a market therein (or significant portion or segment of that market), that the Commission may take under section 12(k)(2) of this title with respect to transactions in securities (other than exempted securities) or a market therein (or significant portion or segment of that market).".

Subtitle G—Other Matters

Chapter 1—Privacy Matters

SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING TAKE INTO CONSIDERATION IMPACTS ON INDIVIDUAL PRIVACY.

(a) SHORT TITLE.—This section may be cited as the "Federal Agency Protection of Privacy Act of 2004".

(b) IN GENERAL.—Title 5, United States Code, is amended by adding after section 553 the following new section:

"§ 553a. Privacy impact assessment in rulemaking

"(a) INITIAL PRIVACY IMPACT ASSESSMENT.—

"(1) IN GENERAL.—Whenever an agency is required by section 553 of this title, or any other law, to publish a general notice of proposed rulemaking for a proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, and such rule or proposed rulemaking pertains to the collection, maintenance, use, or disclosure of personally identifiable information from 10 or more individuals, other than agencies, instrumentalities, or employees of the Federal government, the agency shall prepare and make available for public comment an initial privacy impact assessment that describes the impact of the proposed rule on the privacy of individuals. Such assessment or a summary thereof shall be signed by the senior agency official with primary responsibility for privacy policy and be published

in the Federal Register at the time of the publication of a general notice of proposed rulemaking for the rule.

"(2) CONTENTS.—Each initial privacy impact assessment required under this subsection shall contain the following:

"(A) A description and analysis of the extent to which the proposed rule will impact the privacy interests of individuals, including the extent to which the proposed rule—

"(i) provides notice of the collection of personally identifiable information, and specifies what personally identifiable information is to be collected and how it is to be collected, maintained, used, and disclosed;

"(ii) allows access to such information by the person to whom the personally identifiable information pertains and provides an opportunity to correct inaccuracies;

"(iii) prevents such information, which is collected for one purpose, from being used for another purpose; and

"(iv) provides security for such information.

"(B) A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant privacy impact of the proposed rule on individuals.

"(b) FINAL PRIVACY IMPACT ASSESSMENT.—

"(1) IN GENERAL.—Whenever an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States, and such rule or proposed rulemaking pertains to the collection, maintenance, use, or disclosure of personally identifiable information from 10 or more individuals, other than agencies, instrumentalities, or employees of the Federal government, the agency shall prepare a final privacy impact assessment, signed by the senior agency official with primary responsibility for privacy policy.

"(2) CONTENTS.—Each final privacy impact assessment required under this subsection shall contain the following:

"(A) A description and analysis of the extent to which the final rule will impact the privacy interests of individuals, including the extent to which such rule—

"(i) provides notice of the collection of personally identifiable information, and specifies what personally identifiable information is to be collected and how it is to be collected, maintained, used, and disclosed;

"(ii) allows access to such information by the person to whom the personally identifiable information pertains and provides an opportunity to correct inaccuracies;

"(iii) prevents such information, which is collected for one purpose, from being used for another purpose; and

"(iv) provides security for such information.

"(B) A summary of any significant issues raised by the public comments in response to the initial privacy impact assessment, a summary of the analysis of the agency of such issues, and a statement of any changes made in such rule as a result of such issues.

"(C) A description of the steps the agency has taken to minimize the significant privacy impact on individuals consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the privacy interests of individuals was rejected.

"(3) AVAILABILITY TO PUBLIC.—The agency shall make copies of the final privacy impact assessment available to members of the public and shall publish in the Federal Register such assessment or a summary thereof.

"(c) WAIVERS.—

"(1) EMERGENCIES.—An agency head may waive or delay the completion of some or all of the requirements of subsections (a) and (b) to the same extent as the agency head may, under section 608, waive or delay the completion of some or all of the requirements of sections 603 and 604, respectively.

"(2) NATIONAL SECURITY.—An agency head may, for national security reasons, or to protect from disclosure classified information, confidential commercial information, or information the disclosure of which may adversely affect a law enforcement effort, waive or delay the completion of some or all of the following requirements:

"(A) The requirement of subsection (a)(1) to make an assessment available for public comment.

"(B) The requirement of subsection (a)(1) to have an assessment or summary thereof published in the Federal Register.

"(C) The requirements of subsection (b)(3).

"(d) PROCEDURES FOR GATHERING COMMENTS.—When any rule is promulgated which may have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that individuals have been given an opportunity to participate in the rulemaking for the rule through techniques such as—

"(1) the inclusion in an advance notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals;

"(2) the publication of a general notice of proposed rulemaking in publications of national circulation likely to be obtained by individuals;

"(3) the direct notification of interested individuals;

"(4) the conduct of open conferences or public hearings concerning the rule for individuals, including soliciting and receiving comments over computer networks; and

"(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by individuals.

"(e) PERIODIC REVIEW OF RULES.—

"(1) IN GENERAL.—Each agency shall carry out a periodic review of the rules promulgated by the agency that have a significant privacy impact on individuals, or a privacy impact on a substantial number of individuals. Under such periodic review, the agency shall determine, for each such rule, whether the rule can be amended or rescinded in a manner that minimizes any such impact while remaining in accordance with applicable statutes. For each such determination, the agency shall consider the following factors:

"(A) The continued need for the rule.

"(B) The nature of complaints or comments received from the public concerning the rule.

"(C) The complexity of the rule.

"(D) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules.

"(E) The length of time since the rule was last reviewed under this subsection.

"(F) The degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since the rule was last reviewed under this subsection.

"(2) PLAN REQUIRED.—Each agency shall carry out the periodic review required by paragraph (1) in accordance with a plan published by such agency in the Federal Register. Each such plan shall provide for the review under this subsection of each rule promulgated by the agency not later than 10 years after the date on which such rule was published as the final rule and, thereafter, not later than 10 years after the date on which such rule was last reviewed under this subsection. The agency may amend such plan at any time by publishing the revision in the Federal Register.

"(3) ANNUAL PUBLICATION.—Each year, each agency shall publish in the Federal Register a list of the rules to be reviewed by such agency under this subsection during the following year. The list shall include a brief description of each such rule and the need for and legal basis of such rule and shall invite public comment upon the determination to be made under this subsection with respect to such rule.

"(f) JUDICIAL REVIEW.—

"(1) IN GENERAL.—For any rule subject to this section, an individual who is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of subsections (b) and (c) in accordance with chapter 7. Agency compliance with subsection (d) shall be judicially reviewable in connection with judicial review of subsection (b).

"(2) JURISDICTION.—Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with subsections (b) and (c) in accordance with chapter 7. Agency compliance with subsection (d) shall be judicially reviewable in connection with judicial review of subsection (b).

"(3) LIMITATIONS.—

"(A) An individual may seek such review during the period beginning on the date of final agency action and ending 1 year later, except that where a provision of law requires that an action challenging a final agency action

be commenced before the expiration of 1 year, such lesser period shall apply to an action for judicial review under this subsection.

"(B) In the case where an agency delays the issuance of a final privacy impact assessment pursuant to subsection (c), an action for judicial review under this section shall be filed not later than—

"(i) 1 year after the date the assessment is made available to the public; or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1–year period, the number of days specified in such provision of law that is after the date the assessment is made available to the public.

"(4) RELIEF.—In granting any relief in an action under this subsection, the court shall order the agency to take corrective action consistent with this section and chapter 7, including, but not limited to—

"(A) remanding the rule to the agency; and

"(B) deferring the enforcement of the rule against individuals, unless the court finds that continued enforcement of the rule is in the public interest.

"(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this subsection.

"(6) RECORD OF AGENCY ACTION.—In an action for the judicial review of a rule, the privacy impact assessment for such rule, including an assessment prepared or corrected pursuant to paragraph (4), shall constitute part of the entire record of agency action in connection with such review.

"(7) EXCLUSIVITY.—Compliance or noncompliance by an agency with the provisions of this section shall be subject to judicial review only in accordance with this subsection.

"(8) SAVINGS CLAUSE.—Nothing in this subsection bars judicial review of any other impact statement or similar assessment required by any other law if judicial review of such statement or assessment is otherwise permitted by law.

"(g) DEFINITION.—For purposes of this section, the term 'personally identifiable information' means information that can be used to identify an individual, including such individual's name, address, telephone number, photograph, social security number or other identifying information. It includes information about such individual's medical or financial condition.".

(c) PERIODIC REVIEW TRANSITION PROVISIONS.—

(1) INITIAL PLAN.—For each agency, the plan required by subsection (e) of section 553a of title 5, United States Code (as added by subsection (a)), shall be published not later than 180 days after the date of the enactment of this Act.

(2) In the case of a rule promulgated by an agency before the date of the enactment of this Act, such plan shall provide for the periodic review of such rule before the expiration of the 10–year period beginning on the date of the enactment of this Act. For any such rule, the head of the agency may provide for a 1–year extension of such period if the head of the agency, before the expiration of the period, certifies in a statement published in the Federal Register that reviewing such rule before the expiration of the period is not feasible. The head of the agency may provide for additional 1–year extensions of the period pursuant to the preceding sentence, but in no event may the period exceed 15 years.

(d) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B) of title 5, United States Code, is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

"(iii) the agency's actions relevant to section 553a;".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding after the item relating to section 553 the following new item:

553a. Privacy impact assessment in rulemaking.".

SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH LAW ENFORCEMENT OR ANTI-TERRORISM FUNCTIONS.

(a) IN GENERAL.—There shall be within each Federal agency with law enforcement or anti-terrorism functions a chief privacy officer, who shall have primary responsibility within that agency for privacy policy. The agency chief privacy officer shall be designated by the head of the agency.

(b) RESPONSIBILITIES.—The responsibilities of each agency chief privacy officer shall include—

(1) ensuring that the use of technologies sustains, and does not erode, privacy protections relating to the use, collection, and disclosure of personally identifiable information;

(2) ensuring that personally identifiable information contained in systems of records is handled in full compliance with fair information practices as set out in section 552a of title 5, United States Code;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personally identifiable information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the agency on the privacy of personally identifiable information, including the type of personally identifiable information collected and the number of people affected;

(5) preparing and submitting a report to Congress on an annual basis on activities of the agency that affect privacy, including complaints of privacy violations, implementation of section 552a of title 5, United States Code, internal controls, and other relevant matters;

(6) ensuring that the agency protects personally identifiable information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

(B) confidentially, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

(C) availability, which means ensuring timely and reliable access to and use of that information; and

(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access; and

(7) advising the head of the agency and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems.

CHAPTER 2—MUTUAL AID AND LITIGATION MANAGEMENT

SEC. 5101. SHORT TITLE.

This chapter may be cited as the "Mutual Aid and Litigation Management Authorization Act of 2004".

SEC. 5102. MUTUAL AID AUTHORIZED.

(a) AUTHORIZATION TO ENTER INTO AGREEMENTS.—

(1) IN GENERAL.—The authorized representative of a State, locality, or the Federal Government may enter into an interstate mutual aid agreement or a mutual aid agreement with the Federal Government on behalf of the State, locality, or Federal Government under which, at the request of any party to the agreement, the other party to the agreement may—

(A) provide law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event occurring in the jurisdiction of the requesting party;

(B) provide other services to prepare for, mitigate, manage, respond to, or recover from an emergency or public service event occurring in the jurisdiction of the requesting party; and

(C) participate in training events occurring in the jurisdiction of the requesting party.

(b) LIABILITY AND ACTIONS AT LAW.—

(1) LIABILITY.—A responding party or its officers or employees shall be liable on account of any act or omission occurring while providing assistance or participating in a training event in the jurisdiction of a requesting party under a mutual aid agreement (including any act or omission arising from the maintenance or use of any equipment, facilities, or supplies in connection therewith), but only to the extent permitted under and in accordance with the laws and procedures of the State of the responding party and subject to this chapter.

(2) JURISDICTION OF COURTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and section 3, any action brought against a responding party or its officers or employees on account of an act or omission described in subsection (b)(1) may be brought only under the laws and procedures of the State of the responding party and only in the State courts or United States District Courts located therein.

(B) UNITED STATES AS PARTY.—If the United States is the party against whom an action described in paragraph (1) is brought, the action may be brought only in a United States District Court.

(c) WORKERS' COMPENSATION AND DEATH BENEFITS.—

(1) PAYMENT OF BENEFITS.—A responding party shall provide for the payment of workers' compensation and death benefits with respect to officers or employees of the party who sustain injuries or are killed while providing assistance or participating in a training event under a mutual aid agreement in the same manner and on the same terms as if the injury or death were sustained within the jurisdiction of the responding party.

(2) LIABILITY FOR BENEFITS.—No party shall be liable under the law of any State other than its own (or, in the case of the Federal Government, under any law other than Federal law) for the payment of workers' compensation and death benefits with respect to injured officers or employees of the party who sustain injuries or are killed while providing assistance or participating in a training event under a mutual aid agreement.

(d) LICENSES AND PERMITS.—Whenever any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for professional, mechanical, or other skills, such person will be deemed licensed, certified, or permitted by the requesting party to provide assistance involving such skill under a mutual aid agreement.

(e) SCOPE.—Except to the extent provided in this section, the rights and responsibilities of the parties to a mutual aid agreement shall be as described in the mutual aid agreement.

(f) EFFECT ON OTHER AGREEMENTS.—Nothing in this section precludes any party from entering into supplementary mutual aid agreements with fewer than all the parties, or with another, or affects any other agreements already in force among any parties to such an agreement, including the Emergency Management Assistance Compact (EMAC) under Public Law 104–321.

(g) FEDERAL GOVERNMENT.—Nothing in this section may be construed to limit any other expressed or implied authority of any entity of the Federal Government to enter into mutual aid agreements.

(h) CONSISTENCY WITH STATE LAW.—A party may enter into a mutual aid agreement under this chapter only insofar as the agreement is in accord with State law.

SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.

(a) AUTHORIZATION TO ENTER INTO LITIGATION MANAGEMENT AGREEMENTS.—The authorized representative of a State or locality may enter into a litigation management agreement on behalf of the State or locality. Such litigation management agreements may provide that all claims against such Emergency Response Providers arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from such act shall be governed by the following provisions.

(b) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims against Emergency Response Providers arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from such act. As determined by the parties to a litigation management agreement, the substantive law for decision in any such action shall be—

(A) derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law; or

(B) derived from the choice of law principles agreed to by the parties to a litigation management agreement as described in the litigation management agreement, unless such principles are inconsistent with or preempted by Federal law.

(2) JURISDICTION.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim against Emergency Response Providers for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when Emergency Response Providers from more than 1 State have acted in defense against, in response to, or recovery from an act of terrorism.

(3) SPECIAL RULES.—In an action brought for damages that is governed by a litigation management agreement, the following provisions apply:

(A) PUNITIVE DAMAGES.—No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(B) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action governed by a litigation management agreement shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism.

(4) EXCLUSIONS.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(A) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(B) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 5104. ADDITIONAL PROVISIONS.

(a) NO ABROGATION OF OTHER IMMUNITIES.—Nothing in this chapter shall abrogate any other immunities from liability that any party may have under any other State or Federal law.

(b) EXCEPTION FOR CERTAIN FEDERAL LAW ENFORCEMENT ACTIVITIES.—A mutual aid agreement or a litigation management agreement may not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or to other law enforcement functions of the United States Secret Service.

(c) SECRET SERVICE.—Section 3056 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) The Secret Service shall be maintained as a distinct entity within the Department of Homeland Security and shall not be merged with any other department function. All personnel and operational elements of the United States Secret Service shall report to the Director of the Secret Service, who shall report directly to the Secretary of Homeland Security without being required to report through any other official of the Department.".

SEC. 5105. DEFINITIONS.

For purposes of this chapter, the following definitions apply:

(1) AUTHORIZED REPRESENTATIVE.—The term "authorized representative" means—

(A) in the case of the Federal Government, any individual designated by the President with respect to the executive branch, the Chief Justice of the United States with respect to the judicial branch, or the President pro Tempore of the Senate and Speaker of the House of Representatives with respect to the Congress, or their designees, to enter into a mutual aid agreement;

(B) in the case of a locality, the official designated by law to declare an emergency in and for the locality, or the official's designee;

(C) in the case of a State, the Governor or the Governor's designee.

(2) EMERGENCY.—The term "emergency" means a major disaster or emergency declared by the President, or a State of Emergency declared by an authorized representative of a State or locality, in response to which assistance may be provided under a mutual aid agreement.

(3) EMERGENCY RESPONSE PROVIDER.—The term "Emergency Response Provider" means State or local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities that are a party to a litigation management agreement.

(4) EMPLOYEE.—The term "employee" means, with respect to a party to a mutual aid agreement, the employees of the party, including its agents or authorized volunteers, who are committed to provide assistance under the agreement.

(5) LITIGATION MANAGEMENT AGREEMENT.—The term "litigation management agreement" means an agreement entered into pursuant to the authority granted under section 5103.

(6) LOCALITY.—The term "locality" means a county, city, or town.

(7) MUTUAL AID AGREEMENT.—The term "mutual aid agreement" means an agreement entered into pursuant to the authority granted under section 5102.

(8) PUBLIC SERVICE EVENT.—The term "public service event" means any undeclared emergency, incident, or situation in preparation for or response to which assistance may be provided under a mutual aid agreement.

(9) REQUESTING PARTY.—The term "requesting party" means, with respect to a mutual aid agreement, the party in whose jurisdiction assistance is provided, or a training event is held, under the agreement.

(10) RESPONDING PARTY.—The term "responding party" means, with respect to a mutual aid agreement, the party providing assistance, or participating in

a training event, under the agreement, but does not include the requesting party.

(11) STATE.—The term "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(12) TRAINING EVENT.—The term "training event" means an emergency and public service event-related exercise, test, or other activity using equipment and personnel to prepare for or simulate performance of any aspect of the giving or receiving of assistance during emergencies or public service events, but does not include an actual emergency or public service event.

Chapter 3—Miscellaneous Matters

SEC. 5131. ENHANCEMENT OF PUBLIC SAFETY COMMUNICATIONS INTEROPERABILITY.

(a) COORDINATION OF PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS PROGRAMS.—

(1) PROGRAM.—The Secretary of Homeland Security, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall establish a program to enhance public safety interoperable communications at all levels of government. Such program shall—

(A) establish a comprehensive national approach to achieving public safety interoperable communications;

(B) coordinate with other Federal agencies in carrying out subparagraph (A);

(C) develop, in consultation with other appropriate Federal agencies and State and local authorities, appropriate minimum capabilities for communications interoperability for Federal, State, and local public safety agencies;

(D) accelerate, in consultation with other Federal agencies, including the National Institute of Standards and Technology, the private sector, and nationally recognized standards organizations as appropriate, the development of national voluntary consensus standards for public safety interoperable communications;

(E) encourage the development and implementation of flexible and open architectures, with appropriate levels of security, for short-term and long-term solutions to public safety communications interoperability;

(F) assist other Federal agencies in identifying priorities for research, development, and testing and evaluation with regard to public safety interoperable communications;

(G) identify priorities within the Department of Homeland Security for research, development, and testing and evaluation with regard to public safety interoperable communications;

(H) establish coordinated guidance for Federal grant programs for public safety interoperable communications;

(I) provide technical assistance to State and local public safety agencies regarding planning, acquisition strategies, interoperability architectures, training, and other functions necessary to achieve public safety communications interoperability;

(J) develop and disseminate best practices to improve public safety communications interoperability; and

(K) develop appropriate performance measures and milestones to systematically measure the Nation's progress towards achieving public safety communications interoperability, including the development of national voluntary consensus standards.

(2) OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.—

(A) ESTABLISHMENT OF OFFICE.—The Secretary may establish an Office for Interoperability and Compatibility to carry out this subsection.

(B) FUNCTIONS.—If the Secretary establishes such office, the Secretary shall, through such office—

(i) carry out Department of Homeland Security responsibilities and authorities relating to the SAFECOM Program; and

(ii) carry out subsection (c) (relating to rapid interoperable communications capabilities for high risk jurisdictions).

(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to advisory groups established and maintained by the Secretary for purposes of carrying out this subsection.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall report to the Congress on Department of Homeland Security plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development.

(c) RAPID INTEROPERABLE COMMUNICATIONS CAPABILITIES FOR HIGH RISK JURISDICTIONS.—The Secretary, in consultation with other relevant Federal, State, and local government agencies, shall provide technical, training, and other assistance as appropriate to support the rapid establishment of consistent, secure, and effective interoperable communications capabilities for emergency response providers in jurisdictions determined by the Secretary to be at consistently high levels of risk of terrorist attack.

(d) DEFINITIONS.—In this section:

(1) INTEROPERABLE COMMUNICATIONS.—The term "interoperable communications" means the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

(2) EMERGENCY RESPONSE PROVIDERS.—The term "emergency response providers" has the meaning that term has under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)

(e) CLARIFICATION OF RESPONSIBILITY FOR INTEROPERABLE COMMUNICATIONS.—

(1) UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—Section 502(7) of the Homeland Security Act of 2002 (6 U.S.C. 312(7)) is amended—

(A) by striking "developing comprehensive programs for developing interoperative communications technology, and"; and

(B) by striking "such" and inserting "interoperable communications".

(2) OFFICE FOR DOMESTIC PREPAREDNESS.—Section 430(c) of such Act (6 U.S.C. 238(c)) is amended—

(A) in paragraph (7) by striking "and" after the semicolon;

(B) in paragraph (8) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(9) helping to ensure the acquisition of interoperable communication technology by State and local governments and emergency response providers.".

SEC. 5132. SENSE OF CONGRESS REGARDING THE INCIDENT COMMAND SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) in Homeland Security Presidential Directive–5, the President directed the Secretary of Homeland Security to develop an incident command system to be known as the National Incident Management System (NIMS), and directed all Federal agencies to make the adoption of NIMS a condition for the receipt of Federal emergency preparedness assistance by States, territories, tribes, and local governments beginning in fiscal year 2005;

(2) in March 2004, the Secretary of Homeland Security established NIMS, which provides a unified structural framework for Federal, State, territorial, tribal, and local governments to ensure coordination of command, operations, planning, logistics, finance, and administration during emergencies involving multiple jurisdictions or agencies; and

(3) the National Commission on Terrorist Attacks Upon the United States strongly supports the adoption of NIMS by emergency response agencies nationwide, and the decision by the President to condition Federal emergency preparedness assistance upon the adoption of NIMS.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that all levels of government should adopt NIMS, and that the regular use of and training in NIMS by States, territories, tribes, and local governments should be a condition for receiving Federal preparedness assistance.

SEC. 5133. SENSE OF CONGRESS REGARDING UNITED STATES NORTHERN COMMAND PLANS AND STRATEGIES.

It is the sense of Congress that the Secretary of Defense should regularly assess the adequacy of United States Northern Command's plans and strategies with a view to ensuring that the United States Northern Command is prepared to respond effectively to all military and paramilitary threats within the United States.

PURPOSE

H.R. 10, the "9/11 Recommendations Implementation Act," will help fulfill the constitutional responsibility of the Federal Govern-

ment by improving the security of the United States by strengthening the organizations and authorities of the United States Intelligence Community. The "9/11 Recommendations Implementation Act" will provide for Intelligence Community and other government agency reform, improve terrorism prevention and prosecution, increase border security, and enhance international cooperation and coordination. The overall goals of this legislation are to prevent terrorist attacks against the United States and its interests and to better position our vital Intelligence Community to meet the global threats of the future. This is historic legislation the Committee believes should be supported in the bipartisan manner in which it is intended.

SUMMARY

Title I of this Act provides for Intelligence Community reform through the establishment of a strong National Intelligence Director with improved authority to manage and coordinate the Intelligence Community. The National Intelligence Director will serve as the head of the Intelligence Community and as the principal advisor on intelligence matters to the President. The NID's primary responsibility will be to coordinate the efforts of foreign and domestic intelligence functions. To accomplish these tasks effectively, the National Intelligence Director will have clear authority over Intelligence Community budgets, personnel, collection activities, all-source analysis, information classification, information sharing, and information management technologies and standards. To assist the National Intelligence Director in the fight against terror, a National Counterterrorism Center, responsible for analyzing and integrating all intelligence relating to terrorism and counterterrorism, will be established within the Office of the National Intelligence Director.

COMMITTEE ACTION

Background and Need for the Legislation

The current United States Intelligence Community was not created, and does not operate efficiently, as a single, tightly knit organization. The National Security Act of 1947, which established the Central Intelligence Agency (CIA), did not define an "Intelligence Community" or specify a unified management structure for coordinating the capabilities of the other intelligence agencies which existed at that time. As additional intelligence agencies came into existence during subsequent years, the Intelligence Community evolved into today's loose confederation of fourteen separate agencies and activities with distinctly different histories and missions with no clear leadership line of command. Despite a poorly defined community management structure, the United States has had some success operating these agencies as a unified team; however, overall, the limited management definition has created significant operational inefficiencies.

The Executive and Legislative branches of the Federal Government have long recognized the complexities and inherent inefficiencies in the Intelligence Community's organizational structure. Beginning in 1948, less than a year after the inception of the Central Intelligence Agency (CIA), and numerous times since, independent

commissions, individual experts, and legislative initiatives examined the growth and evolving missions of the Intelligence Community. Proposals by these various reviews have sought to address the identified shortcomings in the Intelligence Community's structure, management, roles, and missions. Proposals have ranged in scope from basic organizational restructuring to the dissolution of the CIA. While many improvements have been implemented, including the establishment of congressional committees dedicated to oversight of intelligence issues in 1976 and 1977, the Intelligence Community entered the 1990's as a loose federation under the relatively weak authority of the Director of Central Intelligence (DCI).

The end of the Cold War, during the early 1990's, had a profound impact on the United States Intelligence Community. Overall, the Intelligence Community was significantly reduced in size and budget (nearly 30 percent by many estimates). Even as priorities were shifted away from the Soviet Union and its Warsaw Pact allies, new transnational threats arose. Political, economic and technological priorities changed and the Intelligence Community was forced to operate against these new threats with limited resources and a large, unwieldy infrastructure that had evolved as an entity focused on a monolithic Soviet military threat. Emerging transnational threats like terrorism, international crime and proliferation of weapons of mass destruction placed new stress on the analytic, foreign language and information collection capabilities of the various agencies of the Intelligence Community. At the same time, the disparate personnel, training and collection priorities hampered the ability of these many agencies to effectively work together to affect change.

Among others, the Congress recognized those challenges and initiated several comprehensive studies dealing with Intelligence Community reform. Starting in 1992, a watershed year for change in U.S. intelligence, the congressional oversight committees proposed a sweeping reorganization of the Community. Reflecting the changed situation of the post-Cold War world, the two committees announced separate plans for an omnibus restructuring of the US Intelligence Community to serve as a counterpart to the Goldwater-Nichols Department of Defense Reorganization Act of 1986. Both proposals called for creation of a Director of National Intelligence with full budget, tasking and personnel authority over all Intelligence Community agencies. The proposals also recommended creating a separate Director of the CIA and two Deputy Directors for National Intelligence; consolidating Intelligence Community analytic efforts, creating a National Imagery Agency within the Department of Defense, and authorizing the Director of National Intelligence to task defense intelligence agencies. Although the legislation was not fully adopted, some provisions, including providing basic charters for Intelligence Community agencies and establishing in law the DCI's coordination responsibilities, were added to the "Intelligence Authorization Act of 1994."

The 1994 change in congressional leadership spurred two major efforts to assess the reforms needed to help the Intelligence Community meet the challenges of the 21st century. One study, the Commission on the Roles and Capabilities of the US Intelligence Community, was directed by Congress in 1995 to determine if the existing US intelligence apparatus was still necessary, what re-

quirements it would need to satisfy in the future, how it should be organized and what it would cost. The Report of the Commission, entitled "Preparing for the 21st Century: An Appraisal of U.S. Intelligence," made a number of recommendations regarding the organization of the Intelligence Community. In addition to proposing structural changes to the National Security Council staff, the Commission recommended the establishment of two Deputy Directors of Central Intelligence (DCI)-one to manage the Intelligence Community and one for day-to-day management of the Central Intelligence Agency. Under the recommendations, the Intelligence Community DCI would be given enhanced powers to manage personnel and the budget. The Commission also proposed a realignment of the intelligence budget to eliminate the focus on organizational budgets by moving to an intelligence discipline (signal intelligence, imagery intelligence, etc.) budgeting format. Finally, the Commission urged improved information sharing between the law enforcement and intelligence communities.

Almost simultaneously with the Commission on the Roles and Capabilities of the US Intelligence Community, in 1995–1996, the House Permanent Select Committee on Intelligence undertook its own extensive review of intelligence issues-the "Intelligence Community in the 21st Century (IC21)" study. The overarching result of this study was the need for a more corporate, or joint, Intelligence Community. The vision was to develop a collection of agencies that viewed themselves as part of a larger, coherent process aimed at a single goal: the delivery of timely intelligence to policy makers at various levels. To achieve this vision, IC21 made several specific recommendations to improve Intelligence Community management including: granting the Director of Central Intelligence (DCI) greater authority in personnel appointments and Intelligence Community budget/personnel issues; establishing a Committee on Foreign Intelligence within the National Security Council; establishing two new Deputy Directors of the CIA and a Community Management Staff with Intelligence Community-wide authority over resources; and appointing a uniformed military officer with authority to manage defense intelligence programs. IC21 also made several recommendations to improve technical collection and human collection management, technology development and congressional oversight.

The results of the Commission on the Roles and Capabilities of the US Intelligence Community and the IC21 study spurred extensive congressional consideration of Intelligence Community issues. The "Intelligence Authorization Act of 1997" included, as its Title VIII, the "Intelligence Renewal and Reform Act of 1996". The Act reorganized the community to include two new Deputy DCI positions, one to support the DCI and the other for Community Management issues, to include resource management. In addition, the legislation provided for three assistant DCIs—for Collection, for Analysis and Production, and for Administration. The Act enhanced the authority of the DCI by requiring that the DCI concur in the appointment of the Director of three major defense intelligence agencies (the National Security Agency, the National Reconnaissance Organization and the National Geospatial Agency) and that the DCI be consulted on the appointment of the heads of various other intelligence agencies. It also gave the DCI the au-

thority to develop and present to the President an annual budget for the National Foreign Intelligence Program and to participate in the development of the military intelligence budgets. Finally, this legislation gave the DCI the authority to approve collection requirements and to determine the collection priorities for national intelligence systems.

Tragically, the September 11, 2001, terrorist attacks highlighted deficiencies, many identified in the various earlier studies, in the performance of the Intelligence Community. To fully identify the deficiencies and the possible corrective actions, two new studies, the congressional Joint Inquiry into the Terrorist Attacks of September 11, 2001, and the National Commission on Terrorist Attacks Upon the United States, were undertaken.

In February 2002, the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence authorized an investigation, to be conducted as a joint inquiry, into the Intelligence Community's activities before and after the September 11, 2001, terrorist attacks against the United States. This bicameral investigation sought to identify what the Intelligence Community knew or should have known regarding those attacks prior to September 11th, the nature of any systemic problems that may have impeded the Community's ability to prevent those attacks, and recommendations for reform to improve the Community's ability to uncover and prevent similar attacks in the future.

The work of the Joint Inquiry confirmed that, although the Intelligence Community had some relevant information that was, in retrospect, significant regarding the September 11th attacks, the Community too often failed to focus on the information and to appreciate its collective significance in terms of a probable terrorist attack. The Inquiry's factual record identified not only the information that was misinterpreted or overlooked, but also a number of systemic weaknesses that contributed to the Community's inability to detect and prevent the attacks. These included a lack of sufficient focus on the potential for a dramatic domestic attack, a lack of a comprehensive counterterrorist strategy, insufficient analytic focus and quality, a reluctance to aggressively develop and implement new technical capabilities, and inadequate sharing of relevant counterterrorism information. To correct such deficiencies, the final report in December 2002 included nineteen recommendations for reform, including such things as the creation of a cabinet-level Director of National Intelligence and prompt consideration of whether the FBI, or a new agency, should perform the domestic intelligence functions of the U.S. Government.

Recognizing the need for a broader review of 9/11 beyond the Intelligence Community, Congress created the National Commission on Terrorist Attacks upon the United States, referred to as "The 9/11 Commission," to "make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the preparedness of the United States' for, and the immediate response to, the attacks" and to make "recommendation for corrective action measures that can be taken to prevent acts of terrorism."

The 9/11 Commission completed its review in July 2004 and shortly thereafter issued its final report, entitled, "The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States." The 9/11 Commission

issued 41 recommendations to help prevent future terrorist attacks. These recommendations fell into two broad categories: developing a global strategy to combat terrorism, and then reorganizing government to implement the strategy. The recommendation to reorganize the government further broke down into efforts to unify structures and missions to improve communication, coordination, and the flow of information to key focal points in government.

Following the release of the 9/11 Commission Report, the House of Representatives conducted 20 hearings, three of which were held by the House Permanent Select Committee on Intelligence regarding the Commission's recommendations. Based on these congressional hearings, H.R. 10, the "9/11 Recommendations Implementation Act," was introduced on September 24, 2004. Faithfully responding to the recommendations of the 9/11 Commission, key aspects of this legislation include the creation of a National Intelligence Director (NID) with enhanced budget and management authorities. The NID is made responsible for strengthening the accuracy of intelligence analysis, and for ensuring the sufficiency and quality of human intelligence. The NID is made the principal authority to ensure intelligence information is shared more effectively among the agencies of the US Government. The bill also creates the National Counterterrorism Center (NCTC) to serve as the primary organization for analyzing and integrating all intelligence pertaining to terrorism and counterterrorism.

It is vital that Intelligence Community reform better align US resources and management authorities to effectively target both the terrorist threats of today as well as future threats to the nation's national security. The new perspective on national security is that intelligence is the first line of defense against an elusive and unstructured threat that uses asymmetric means to harm America. H.R. 10, as amended, recognizes this new perspective and provides the framework for better responding to these difficult threats.

Hearings

Since the beginning of the 107th Congress, the Permanent Select Committee on Intelligence has held 13 budget-related and numerous other hearings to address the state of health of the Intelligence Community, counter-terrorism efforts, and the Director of Central Intelligence's views and plans for the future of intelligence and the Intelligence Community.

The Joint Inquiry Committee, comprised of Members of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, held nine public hearings and thirteen closed sessions. In December 2002, both Intelligence Committees approved, by separate votes, the Final Report of the Joint Inquiry.

Following the release of the National Commission on Terrorist Attacks upon the United States Report (The 9/11 Commission) in July 2004, the House Permanent Select Committee held two open hearings and one closed hearing to review the Commission's findings and recommendations.

• On August 4, 2004, the Committee held an open hearing. Testimony was received from ten witnesses: the Honorable Dr. John J. Hamre, Former Deputy Secretary of Defense; LTG William E. Odom (USA, Ret.), Former Director of National Security Agency;

Mr. Michael O'Hanlon, Military Analyst, Brookings Institute; Dr. James J. Carafano, the Heritage Foundation; Mr. Timothy Edgar, American Civil Liberties Union; Ms. Jami A. Miscik, Deputy Director of Intelligence, CIA; Charles Allen, Assistant Director of Central Intelligence for Collection; Mark Lowenthal, Assistance Director of Central Intelligence, Analysis and Production; Ms. Maureen A. Baginski, Executive Assistant Director, Office of Intelligence, FBI; and Ambassador J. Cofer Black, Coordinator, Office of the Coordinator for Counterterrorism, Department of State.

• On August 11, 2003, the Committee held its second open hearing. Testimony was received from five witnesses: the Honorable Thomas Kean, Chairman of the 9–11 Commission; the Honorable Lee Hamilton, Vice Chair of the 9–11 Commission; the Honorable Newt Gingrich, Senior Fellow, American Enterprise Institute, Former Speaker of the House; the Honorable Larry D. Thompson, Senior Fellow, Brookings Institute, Former Deputy Attorney General; and the Honorable Edwin Meese III, Ronald Reagan Distinguished Fellow in Public Policy, the Heritage Foundation, Former Attorney General.

• On August 18, 2004, the Committee held a closed hearing. Testimony was received from nine witnesses: the Honorable John E. McLaughlin, Director of Central Intelligence (Acting); the Honorable Steven Cambone, Undersecretary of Defense for Intelligence; Lt. Gen Michael V. Hayden (USAF), Director, National Security Agency; Vice Admiral Lowell E. Jacoby, Director, Defense Intelligence Agency; Mr. Peter Teets, Director, National Reconnaissance Office; Lt. Gen James R. Clapper, Jr. (USAF, Ret.), Director, National Geospatial-Intelligence Agency; Mr. John S. Pistole, Executive Assistant Director for Counterterrorism and Counterintelligence, FBI; and other Intelligence Community officials involved in counterterrorism efforts.

Committee consideration

On September 29, 2004, the Permanent Select Committee on Intelligence met in open session and ordered favorably reported the bill, H.R. 10, as amended, by roll call vote, a quorum being present. The Committee's consideration was limited to the provisions of the bill within the Committee's jurisdiction, namely Title I (Reform of the Intelligence Community) in its entirety; Title III (Border Security and Terrorist Travel), specifically Subtitle D (Terrorist Travel); and Title V (Government Restructuring), specifically Subtitle B (Government Reorganization Authority) and Subtitle F (Security Clearance Modernization).

COMMITTEE VIEWS

H.R. 10 reforms the Intelligence Community of the United States, improves the nation's ability to prevent and prosecute terrorism, enhances border security, international security cooperation and coordination, and other initiatives to protect the United States and its citizens.

The bill is historic. It contains what may prove to be the most sweeping reform of the United States Intelligence Community since the National Security Act of 1947. There have not been such truly substantive improvements to the overall management structure of the nation's Intelligence Community in 55 years. As a primary

goal, the legislation creates a National Intelligence Director with dramatically enhanced authorities and capabilities to manage and coordinate the disparate efforts of all the various intelligence components and elements of the United States government. H.R. 10 makes a tremendous move forward in providing better intelligence to national policymakers and, just as importantly, to our military personnel engaged around the world.

The bill provisions are rooted in recommendations of many studies of the Intelligence Community dating back to 1992, and most directly address the recommendations offered by the National Commission on Terrorist Attacks Upon the United States, popularly known as the "9/11 Commission." The Committee thoroughly reviewed the 9/11 Commission's findings and has faithfully attempted to provide the new National Intelligence Director (NID) with the authorities the Commission recommended in the wake of the terrorist attacks on the United States. The only notable exceptions are in the recommendation to declassify the national intelligence budget and where within the Executive branch the Office of the National Intelligence Director would reside.

The Committee critically reviewed the potential ramifications of declassifying the top line of the budget and, consistent with past votes in the House of Representatives, believes that the negative consequences of such a move outweigh any possible benefits. The Committee also determined that in order to keep intelligence support independent of policy development the Office of the NID should not be located within the Executive Office of the President. In virtually every other respect, however, the Committee has attempted to implement the legislative changes recommended by the Commission.

The Committee firmly believes that this legislation will empower the National Intelligence Director to make a significant improvement in the coordination and management the intelligence efforts of the federal government. It is not, however, under the false impression that, by themselves, these structural changes and enhanced authorities will ensure perfect knowledge about our enemies and their intentions in the future. Those that would do America harm are clever, they are very secretive, and the asymmetric threats that they can both imagine and implement require us to be many times better at defense than our enemies need be at offense. Intelligence support to our defense therefore can never be expected to be perfect. Nonetheless, the improvements in structure and authority provided in this bill will make significant improvements in the outcomes of our intelligence analysis, collection and dissemination.

Some will debate the specific meaning of individual words in the text of the bill. Rather than focusing on such semantic shadings where they may have little practical impact, however, the Committee believes that it is far more important to focus on the intent of the bill. The Committee intends to ensure the strongest, most empowered intelligence director possible. Along with other national security and law enforcement committees of the House, the Committee has crafted a very strong bill to provide the necessary authorities to the new Intelligence Director; fully consistent with the recommendations suggested by the 9/11 Commission and other reviews.

This legislation contains five major improvements to current law:

First and foremost, the Committee creates an empowered National Intelligence Director, who is the head of the Intelligence Community and the principal advisor to the President on all intelligence matters. Because this individual is intended to direct the overall Intelligence Community, this new position will be separated from that of the Director of the Central Intelligence Agency.

Second, the Committee provides the new National Intelligence Director with enhanced management authorities to coordinate and manage all aspects of intelligence operations as well as improved authorities over, and control of, intelligence budgets. These new authorities are unprecedented and strike a careful balance between the equities of the National Intelligence Director and the heads of the departments that contain the elements of the Intelligence Community.

Third, the Committee vests in the National Intelligence Director the responsibility and authority to dramatically improve information sharing of intelligence across the government. This includes the ability to implement an integrated information technology network and establish uniform security standards that can break down stovepipes and promote the fullest information sharing possible.

Fourth, the Committee makes the National Intelligence Director responsible for strengthening intelligence analysis across the Community, and for ensuring the sufficiency and quality of human intelligence and other intelligence capabilities. This responsibility will require the Director to focus more attention to a better balancing of all our national and tactical intelligence capabilities and, therefore, more attention to the proper application of fiscal resources across the Community. For that reason, the Committee has provided greater responsibility to the National intelligence Director to oversee the budgets of the Intelligence Community.

Finally, the Committee created a National Counterterrorism Center in the office of the National Intelligence Director. This center will be responsible for analyzing and integrating all intelligence pertaining to terrorism and counter-terrorism. It will also be responsible for strategic planning and integration of all instruments of national power to detect, deter and disrupt terrorist activities.

While providing for the improved ability of the National Intelligence Director to coordinate all aspects of the nation's intelligence capabilities, the Committee has also taken great care to ensure that the civil liberties of United States citizens are protected. This legislation, for example, creates a Civil Liberties Protection Officer, within the Office of the NID, and a Privacy and Civil Liberties Oversight Board within the Intelligence Community. The purpose of both is to ensure that the activities of the Intelligence Community do not violate the constitutionally guaranteed rights and privileges of U.S. citizens.

Finally, it bears emphasis that the legislation goes beyond the various commission recommendations to do more than simply improve intelligence structure. The Committee has, for example, included several provisions to dramatically improve Intelligence Community training and education, particularly in the areas of foreign language expertise and analyst proficiency.

H.R. 10 is real reform of the Intelligence Community. It makes fundamental changes that will improve the intelligence efforts and information sharing of the United States government. This is historic legislation that the Committee believes should be supported in a bipartisan manner.

SECTION-BY-SECTION ANALYSIS

The following is a section-by-section analysis of those sections of H.R. 10 considered by the House Permanent Select Committee on Intelligence:

SEC. 1 SHORT TITLE

This section identifies the legislation as the "9/11 Recommendations Implementation Act of 2004."

Sec. 2. Table of contents

This section contains the table of contents for this Act.

TITLE I: REFORM OF THE INTELLIGENCE COMMUNITY

Sec. 1001. Short title

This section identifies this title as the "National Security Intelligence Improvement Act of 2004."

Subtitle A. Establishment of National Intelligence Director

Sec. 1011. Reorganization and improvement of management of Intelligence Community

This section amends the National Security Act of 1947 by deleting existing sections 102 through 104 and replacing them with the following sections 102, 102A, 103, 103A, 104 and 104A.

This section amends Section 102 of the National Security Act of 1947 to create the presidentially-appointed, senate-confirmed position of National Intelligence Director (NID), a position that shall not be located within the Executive Office of the President. It establishes the duties of the National Intelligence Director, which include serving as head of the Intelligence Community and the principal intelligence advisor to the President and other designated officials. The Director is also tasked to manage and oversee the execution of the National Intelligence Program (NIP). It prohibits the NID from simultaneously serving as the Director of the Central Intelligence Agency or as the head of any other element of the Intelligence Community.

This section also amends Section 102A of the National Security Act of 1947 to specify the authorities and responsibilities of the National Intelligence Director. The NID shall: have access, to the extent approved by the President, to all national intelligence and intelligence related to national security; develop and present the annual budget for the National Intelligence Program; participate in the development by the Secretary of Defense of the annual budgets for the JMIP and TIARA; facilitate the management and execution of NIP funds; monitor the implementation and execution of the NIP by the heads of Intelligence Community elements; have the authority, with the approval of the Director of OMB, to reprogram or transfer funds within the NIP in accordance with existing congres-

sional notification procedures applicable to reprogramming; and have acquisition authority over all NIP procurements and contracts. Additionally, the NID has the authority to develop collection objectives, priorities and guidance for the Intelligence Community; determine and establish requirements priorities for, and manage and direct the tasking of, collection, analysis, production and dissemination national intelligence; approve requirements for collection and analysis; resolve conflicts in collection requirements and in tasking of national collection assets; and provide advisory tasking to intelligence elements not within the NIP. In addition, this section levies specific responsibilities on the NID to include: providing timely, objective, all-source national intelligence to military and civilian leaders in the Executive Branch; ensuring reinvigorating analysis through new all-source techniques, analytic competition and allowing room for diversity; protecting intelligence sources and methods; providing uniform measures for sensitive compartmented information; coordinating with the intelligence agencies or services of foreign governments, considering the views of other elements within the Intelligence Community; building a personnel system that encourages joint Intelligence Community assignments, assignments to the Office of the NID and personnel rotation between agencies; and ensuring maximum availability and access to intelligence information within the Intelligence Community.

This section also amends Section 103 of the National Security Act of 1947 to establish the Office of the National Intelligence Director to assist the NID in performing his duties. It establishes and specifies the responsibilities for the following positions: a presidentially-appointed, senate confirmed Deputy National Intelligence Director; Deputy National Intelligence Director for Operations; Deputy National Intelligence Director for Community Management and Resources, Associate National Intelligence Director for Military Support, Associate National Intelligence Director for Domestic Security, Associate National Intelligence Director for Diplomatic Affairs, a National Intelligence Council, and the General Counsel to the National Intelligence Director. This section encourages the appointment of a uniformed military officer or individual with significant military experience to either the National Intelligence Director or the Deputy National Intelligence Director positions; however it specifically prohibits both positions from being held, simultaneously, by a member of the military. This section also specifies the appointment of an Intelligence Community Information Technology Officer who will be responsible for ensuring the sharing of information between all elements of the Intelligence Community including assisting in the development of an integrated technology network and an enterprise architecture.

This section amends Section 104 of the National Security Act of 1947 to establish that the Central Intelligence Agency shall assist the Director of the Central Intelligence Agency (vice the Director of Central Intelligence) in carrying out the duties assigned to the Director of the Central Intelligence Agency in Section 104A(c).

This section amends the National Security Act of 1947 to create Section 104A which establishes that the Director of the Central Intelligence Agency shall be presidentially-appointed, with the advice and consent of the Senate. This section also outlines the duties and

responsibilities of the Director of the Central Intelligence Agency to include collection of intelligence through human sources, overall direction and guidance for Intelligence Community-wide human source collection, and evaluation/dissemination of intelligence products. The Director of the CIA shall serve under the direction and control of the National Intelligence Director. This section also establishes the position and responsibilities of Deputy Director of the Central Intelligence Agency, who shall be appointed by the President. This section directs the Senate to dispose of the initial NID appointment within a period of 30 legislative days. If the Senate does not dispose of the nomination within the 30 day period, then Senate confirmation is not required and the nominated NID may take office upon effect of the administration oath of office.

7EC. 1012. REVISED DEFINITIONS OF NATIONAL INTELLIGENCE

This section defines "national intelligence" and "intelligence related to national security" to refer to all intelligence, regardless of source and including information collected both domestically and overseas, that involves threats to the United States, its people, property or interests; the development or use of weapons of mass destruction; or any other matter bearing on the United States national or homeland security.

Sec. 1013. Joint procedures for operational coordination between Department of Defense and Central Intelligence Agency

This section tasks the National Intelligence Director, in consultation with the Secretary of Defense and the Director of CIA, with establishing procedures and policies for operational coordination between the Department of Defense (DoD) and the CIA. The procedures must contain, at a minimum, methods by which the DoD and the CIA can improve communication and coordination in planning, executing and sustaining operations; senior level information exchanges upon the commencement of operational planning; and methods for the Secretary of Defense and the Director of the Central Intelligence Agency to ensure mutual knowledge of on-going operational missions. Within 180 days of the enactment of this Act, the NID shall submit a report to the appropriate Congressional committees describing these new coordination procedures.

Sec. 1014 Role of National Intelligence Director in appointment of certain officials responsible for intelligence-related activities

This section amends Section 106 of the National Security Act of 1947 to enable the NID to recommend to the President individuals for appointment as the Deputy NID and the Director of the CIA. In addition, the NID must concur, with the SecDef, in the selection of a new head of the National Security Agency, National Reconnaissance Office, and the National Geospatial-Intelligence Agency. The NID shall be consulted on the selection of the heads of the Director of the Defense Intelligence Agency, Assistant Secretary of State for Intelligence and Research, Director of the Office of Intelligence of the Department of Energy, Director of the Office of Counterintelligence of the Department of Energy, Assistant Secretary for Intelligence and Analysis of the Department of the Treasury, Executive Assistant Director for Intelligence of the Federal Bureau of Investigation, Undersecretary of Homeland Security for Informa-

tion Analysis and Infrastructure Protection, and the Deputy Assistant Commandant of the Coast Guard for Intelligence.

Sec. 1015. Initial appointment of the National Intelligence Director

This section stipulates that, upon enactment of this Act, the President may direct that the individual serving as Director of the CIA become the National Intelligence

Director. It also reconciles references in existing law and other materials to the Director of Central Intelligence and other officials to the new positions created elsewhere in the bill.

Sec. 1016. Executive schedule matters

This section establishes the executive schedule status of the National Intelligence

Director and his Deputy.

Subtitle B. National Counterterrorism Center and Civil Liberties Protections

Sec. 1021. National Counterterrorism Center

This section amends the National Security Act of 1947 to create Section 119 which establishes a National Counterterrorism Center (NCTC) within the Office of the National Intelligence Director in accordance with the central recommendation of the 9/11

Commission. The Director of the NCTC shall be appointed by the NID. The NCTC is to be the primary governmental organization tasked with analyzing and integrating all intelligence on matters of terrorism and counterterrorism, as well as conducting strategic operational planning for counterterrorist activities. The National Counterterrorism Center shall support operational responsibilities of agencies who are engaged in counterterrorism activities; however, the Director of the National Counterterrorism Center may not direct the execution of counterterrorism operations. This section establishes a Directorate of Intelligence and a Directorate of Strategic Planning within the National Counterterrorism

Center.

Sec. 1022. Civil Liberties Protection Officer

This section creates a Civil Liberties Protection Officer, appointed by the National

Intelligence Director, within the Office of the NID. The Civil Liberties Protection

Officer shall: ensure that protection of civil liberties is appropriately incorporated into the policies and procedures of the Intelligence Community; oversee compliance by the Office of the NID with all requirements under the Constitution; review and assess possible abuse complaints; ensure that new technologies sustain privacy protections; ensure that personal information is handled in full compliance with fair information practices; and conduct privacy impact assessments when necessary. The Civil Liberties Protection Officer may direct the Inspector General of the appropriate agency to conduct investigations or privacy assessments.

Sec. 1023. Privacy and Civil Liberties Oversight Board

THIS SECTION ESTABLISHES A PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD. THE

Board will be comprised of five individuals, including a Chairman, who shall be appointed by the President upon the recommendation of the NID. The Board will be responsible for ensuring that concerns with respect to civil liberties and privacy are appropriately considered in the development and implementation of laws, regulations and policies related to the efforts of the Intelligence Community. The Board will review the implementation of new and existing Intelligence Community legislation and policies, advise the NID and other heads of Federal executive agencies or departments on civil liberties issues, and review the intelligence information sharing practices of the Intelligence Community to determine whether they appropriately protect privacy and civil liberties issues. To carry out its mission, the Board may request that the NID secure all relevant documented information, including classified information consistent with applicable laws. In addition, the Board may interview personnel from any element of the Intelligence Community. The Board is responsible for preparing and submitting to the NID and the Congress an annual report detailing the major activities of the Board during the reporting period and any findings, conclusions or recommendations.

SUBTITLE C. JOINT INTELLIGENCE COMMUNITY COUNCIL

Sec. 1031. Joint Intelligence Community Council

This section establishes the Joint Intelligence Community Council which will provide advice to the National Intelligence Director as appropriate. The Joint

Intelligence Community Council shall consist of: National Intelligence Director, who will serve as chair; the Secretary of State; the Secretary of Treasury; the Secretary of Defense; the Attorney General; the Secretary of Energy; the Secretary of Homeland

Security; and such other executive branch officials as the President may designate. Intelligence Community Council shall consist of: National Intelligence Director, who will serve as chair; the Secretary of State; the Secretary of Treasury; the Secretary of Defense; the Attorney General; the Secretary of Energy; the Secretary of Homeland Security; and such other executive branch officials as the President may designate.

Subtitle D. Improvement of Human Intelligence (HUMINT)

Sec. 1041. Human intelligence as an increasingly critical component of the Intelligence Community

This section states that it is the sense of Congress that the human intelligence officers of the Intelligence Community have performed admirably in the face of great personal dangers. Furthermore, while human intelligence is vital to counter the current asymmetric threats to U.S national security, in the recent past, the resources devoted to human intelligence collection were not commensurate with the current threat. Therefore, there exists a contin-

ued need to place increased emphasis and resources on developing a robust, empowered and flexible human intelligence work force.

Sec. 1042. Improvement of human intelligence capacity

This section tasks the Director of National Intelligence to submit to Congress, not later than six months after the date of enactment of this bill, a plan to enhance the capacity and quality of human intelligence collection across the Intelligence Community. Given our longstanding concern, expressed in the findings and recommendations of various studies such as the 1996 Intelligence Community in the 21st Century study and the 2002 Joint Inquiry into the Intelligence Community Activities before and after the Terrorist Attacks of September 11, 2001, with human intelligence collection capabilities and capacities, the intent of this section is to develop a viable plan to accelerate improvements to our vital HUMINT collection.

Subtitle E: Improvement of Education for the Intelligence Community

Sec. 1051. Modification of obligated service requirements under National Security Education Program

This section amends Section 802 of the David L. Boren National Security Education Act of 1991 to expand the options under which recipients of National Security Education Program scholarships and fellowships are permitted to fulfill their Federal service obligation. Included among the repayment options are positions requiring language and regional expertise in the Department of Defense, any element of the Intelligence Community, the Department of Homeland Security, or the Department of State. If an appropriate position is not available in any of these agencies, service in another Federal department or agency is authorized. Each individual receiving a scholarship, grant or fellowship from NSEP is required to provide government service in a timely manner, but in no case later than two years after the completion by such individual.

Sec. 1052. Improvements to the National Flagship Language Initiative

This legislation authorizes the expansion of the National Flagship Language Initiative. This section increases the number of participating institutions that accept individuals already possessing language skills and improving those skills to a high proficiency, and authorizes an appropriation of $12,000,000 for fiscal year 2005 to support these activities. Flagship activities can include language and cultural immersion overseas. Individuals who receive advanced language training under this program are required to perform service utilizing their enhanced skills in an approved Federal agency.

Sec. 1053. Establishment of scholarship program for English language studies for heritage community citizens of the United States within the National Security Education Program

This section amends Section 802(a)(1) of the David L. Boren National Security Education Act of 1991 to establish a scholarship program for English language studies for members of the U.S. heritage communities who are interested in service to the nation, al-

ready possess fluency in a language critical to U.S. national security, but who are not proficient to a professional level in the English language.

This section also amends Section 812 of the David L. Boren National Security Education Act of 1991 to authorize an appropriation of $4,000,000 for fiscal year 2005 for the scholarship program established in Section 802(a)(1)(E) of that Act.

Sec. 1054. Sense of Congress with respect to language and education for the Intelligence Community; reports

This section states that it is the sense of Congress that the National Intelligence Director should establish a senior position responsible for foreign language and training, ensuring that the foreign language requirements of the Intelligence Community are met.

The section also identifies a number of related reports that the National Intelligence Director is to submit to the Congress not later than one year after the date of enactment.

Sec. 1055. Advancement of foreign languages critical to the Intelligence Community

This section amends Title X of the National Security Act of 1947 to include the following subtitles:

Subtitle A—Science and Technology

Subtitle B—Foreign Languages Program authorizes the National Intelligence Director and the Secretary of Defense to establish a program dedicated to the advancement of languages critical to the security of the United States. In furtherance of this program, the heads of elements in the Intelligence Community can establish partnerships with educational institutions, and can provide equipment, curriculum development, language instruction, career advice, and cash awards. In furtherance of this program, the volunteer services of current employees of the Federal Government or former civilian or military personnel can be drawn upon.

Subtitle C—Additional Education Provisions gives the National Intelligence Director the authority to provide language training to those individuals in the Intelligence Community whose positions require proficiency in a foreign language, and to provide reimbursement for the costs of that language training. Items qualifying for reimbursement would include, but not be limited to, reading materials, instructional tapes and CDs, evening instruction, and other reasonable costs an individual may incur maintaining language proficiency.

Sec. 1056. Pilot project for Civilian Linguist Reserve Corps

This section authorizes such sums as may be necessary for fiscal year 2005, 2006, and 2007 to the National Intelligence Director to support a pilot Civilian Linguist Reserve Corps. The Intelligence Authorization Act of FY 2003 required a report on the feasibility of a Civilian Linguist Reserve Corps, together with recommendations on how such a Corps would be structured and what critical languages would be provided. Pursuant to the findings and recommendations of the report mentioned above, a three year pilot program is authorized.

Sec. 1057. Codification of establishment of the National Virtual Translation Center

This section amends Title I of the National Security Act of 1947, as amended by section 1021(a), by adding a new Section 120 which authorizes the National Virtual Translation Center to utilize any U.S. Government certified secure facility to conduct its translation activities.

Sec. 1058. Report on recruitment and retention of qualified instructors of the Defense Language Institute

This section requires the Secretary of Defense to provide a report on options to increase the retention of qualified language instructors at the Foreign Language Center at the Defense Language Institute. Among the options to be considered is the provision of expedited permanent resident alien status for those qualified instructors who are not U.S. citizens.

Subtitle F. Additional Improvements of Intelligence Activities

Sec. 1061. Permanent extension of Central Intelligence Agency Voluntary Separation Incentive Program

This section makes permanent the Central Intelligence Agency Program related to employee incentives for voluntary separation from service.

Sec. 1062. National Security Agency Emerging Technologies Panel

This section amends the National Security Agency Act of 1959 to establish a National Security Agency Technologies Panel. This standing panel will exist within the National Security Agency and appointments to the panel will be made by the Director of the National Security Agency. This panel will study, assess, and periodically advise the Director of the National Security Agency on research, development, and application of existing and emerging technologies to include encryption and other pertinent topics. The Federal Advisory Committee Act will not apply to the work of this panel.

Subtitle G. Conforming and Other Amendments

Sec. 1071. Conforming amendments relating to roles of National Intelligence Director and Director of the Central Intelligence Agency

The section contains numerous conforming amendments that amend the National Security Act of 1947 to replace the term 'Director of Central Intelligence' with 'National Intelligence Director' in those instances where authorities and responsibilities have been vested pursuant to this bill in the NID; to replace the term 'Director of Central Intelligence' with 'Director of the Central Intelligence Agency' in those instances where authorities and responsibilities have been vested pursuant to this bill in the Director of the CIA; and to vest responsibility in both the NID and the Director of the CIA in those instances where both the NID and the Director of the CIA have joint responsibilities pursuant to provisions of this bill.

Sec. 1072. Other conforming amendments

This section contains numerous conforming amendments that amend the National Security Act of 1947 in similar fashion as the conforming amendments in Section 1071, but with respect to the Deputy Director of Central Intelligence and the Deputy National Intelligence Director; and the Office of the Director of Central Intelligence and the Office of the National Intelligence.

Sec. 1073. Elements of Intelligence Community under National Security Act of 1947

This section amends the National Security Act of 1947 to expand the term 'Intelligence Community'. The Intelligence Community will include the Office of the National Intelligence Director and any other elements or departments designated by the President or jointly by the National Intelligence Director and the department or agency concerned.

Sec. 1074. Redesignation of National Foreign Intelligence Program as National Intelligence Program

This section amends the National Security Act of 1947 to change the "National Foreign Intelligence Program" (NFIP) to "National Intelligence Program" (NIP).

Sec. 1075. Repeal of superseded authorities

This section amends the National Security Act of 1947 to repeal the authority of the DCI to concur on the appointments of personnel to the following positions: Director of the National Security Agency, Director of the National Reconnaissance Office and Director of the National Geospatial-intelligence Agency. It also repeals the provisions requiring consultation with the DCI on other Intelligence Community appointments.

Sec. 1076. Clerical amendments to National Security Act of 1947

This section amends the National Security of 1947 to make technical corrections to the table of contents.

Sec. 1077. Conforming amendments relating to prohibiting dual service of the Director of the Central Intelligence Agency

This section amends the Central Intelligence Agency Act of 1949 to make technical amendments to clarify that "Director" means the "Director of the Central Intelligence Agency".

Sec. 1078. Access to Inspector General protections

This section amends the Central Intelligence Agency Act of 1949 to allow the Inspector General of the Central Intelligence Agency the ability to initiate and conduct independent audits, inspections, investigations relating to the programs and operations of the Office of the National Intelligence Director.

Sec. 1079. General references

Any reference in law, regulation, or other records of the United States to the Director of Central Intelligence or Director of Central Intelligence Agency in the capacity as DCI shall be deemed to be a reference to the National Intelligence Director. Any reference in law, regulation or other records to the DCI or the Director of the

CIA in the capacity as head of the CIA shall be deemed to be a reference to the Director of the Central Intelligence Agency. Any reference to the Community Management Staff in law, regulation, or other records of the United States shall be deemed a reference to the staff of the Office of the National Intelligence Director.

Sec. 1080. Application of other laws

This section amends Title 5, U.S.C. to allow the National Intelligence Director the ability to delete information in foreign gift disclosures if disclosing such information would adversely affect United States intelligence sources. The section also allows for an exemption from financial disclosures.

Subtitle H. Transfer, Termination, Transition and Other Provisions

Sec. 1091. Transfer of Community Management Staff

This section transfers the staff of the Community Management Staff in its entirety to the Office of the National Intelligence Director.

Sec. 1092. Transfer of Terrorist Threat Integration Center

This section transfers the Terrorist Threat Integration Center (TTIC) in its entirety to the National Counterterrorism Center.

Sec. 1093. Termination of positions of Assistant Directors of Central Intelligence

This section terminates the positions of Assistant Director of Central Intelligence for Collection, Assistant Director of Central Intelligence for Analysis and Production, and Assistant Director of Central Intelligence for Administration.

Sec. 1094. Implementation plans

This section requires the President to transmit a reorganization plan to the appropriate congressional committees. This plan should cover the transfer of personnel, assets, and obligations to the National Intelligence Director. In addition, any consolidation or streamlining should be outlined in this plan. Recommendations for additional legislative or administrative actions shall also be covered in this report. In addition, it is the sense of Congress that the permanent location for the Office of the National Intelligence Director should be at a location other than the George Bush Center for Intelligence in Langley, VA.

Sec. 1095. Transitional authorities

This section allows the head of any executive agency to provide services or detail personnel to the National Intelligence Director to support the transition.

Sec. 1096. Effective dates

This section establishes effective dates for specific actions within this Act. The NID must first appoint individuals to the Office of the National Intelligence Director within 60 days. Within 180 days, the President shall transmit the implementation plan to Congress. Not later than one year after the enactment of this Act, the NID shall

prescribe the regulations, policies and guidelines required by this Act.

TITLE III. BORDER SECURITY AND TERRORIST TRAVEL

Subtitle D. Terrorist Travel

Sec. 3101. Information sharing and coordination

This section directs the Secretary of Homeland Security to establish a mechanism to ensure the appropriate coordination and dissemination of terrorist travel intelligence amongst the applicable agencies of the Department of Homeland Security, the Department of State, the National Counterterrorism Center and other appropriate Federal agencies.

Sec. 3102. Terrorist travel program

This section directs the Secretary of Homeland Security to establish a program to analyze information and intelligence on terrorist travel and to then disseminate that information to all U.S. ports of entry and to appropriate U.S. embassies and consulates. The Director of Homeland Security is also required to consult with the Director of National Counterterrorism on the establishment and implementation of a terrorist travel program.

Sec. 3103. Training program

This section directs the Secretary of Homeland Security to develop and implement an enhanced training program for border, immigration and consular officers to teach such officials how to detect and disrupt terrorist travel.

Sec. 3104. Technology acquisition and dissemination plan

This section directs the Secretary of Homeland Security, in consultation with the Secretary of State, to provide, within 180 days of enactment, a plan to acquire and deploy technologies to facilitate travel document authentication. The section directs that, to the maximum extent possible, that all new technologies should be compatible with current systems.

TITLE V. GOVERNMENT RESTRUCTURING

Subtitle B. Government Reorganization Authority

Sec. 5021. Authorization of intelligence community reorganization plans

This section provides the authority for the Executive branch to submit reorganization plans for Intelligence Community agencies. The section limits the ability of the appropriate congressional oversight committees to provide more than an "up/down" vote on the entire reorganization plan.

Subtitle F. Security Clearance Modernization

Sec. 5071. Definitions

This section provides the definitions for the following terms: Director, agency, authorized investigative agency, authorized adjudicative agency, highly sensitive program, current investigation

file, personnel security investigation, periodic reinvestigations and the appropriate committees of Congress.

Sec. 5072. Security clearance and investigative programs oversight and administration

The responsibilities and authority of the Deputy NID for Community Management and Resources vis-à-vis security clearance policy are laid out here. The duties include: (1) daily oversight of these issues government-wide; (2) the establishment of uniform investigative and adjudicative procedures, application questionnaires and requirements; (3) the power to designate authorized investigative and adjudicative agencies; (4) enforcing reciprocity; and (5) developing new resources, methods and tools.

Sec. 5073. Reciprocity of security clearance and access determinations

This section establishes in statute, for the first time, the mandatory reciprocal recognition of security clearances government-wide. To this end, it also explicitly prohibits the establishment of additional requirements or the use of duplicative investigations by agencies that try to inhibit access to classified information by personnel with the appropriate level of clearance.

Sec. 5074. Establishment of national database

First, this section facilitates information sharing and reduces backlog by consolidating all information about cleared personnel and security clearance applicants into a single, government-wide database accessible to all agencies. Second, the NID can enforce the use of this database, and thereby also enforce the reciprocal recognition of security clearances, by controlling each agency's authority to investigate and adjudicate clearances.

Sec. 5075. Use of available technology in clearance investigations

This section encourages the use of the latest technology in investigating, adjudicating, and maintaining security clearances. Specifically included is the development of a system that would provide continuous monitoring of cleared personnel in order to spot developing trends that may compromise the security of government information before they become a problem. It also allows the granting of interim clearances, before the investigation is complete, to personnel who are being investigated using the new technology. Investigative agencies are directed to establish procedures to conduct regular and ongoing verification of personnel with security clearances using the new database technology. Further, the Director of National Intelligence is allowed to discontinue periodic reinvestigations and replace them with regularly recurring verification if he/she deems that the national security of the United States will not be harmed by this replacement.

Sec. 5076. Reduction in length of personnel security clearance process

This section establishes a performance goal of 60 days for granting a security clearance (40 days for an investigation and 20 days for adjudication) over a phase-in period of 5 years. It also estab-

lishes an interim benchmark of 120 days from application to adjudication to be reached within 2 years of enactment.

Sec. 5077. Security clearances for presidential transition

This section addresses the specific recommendation of the 9/11 Report that security clearances be expedited for Presidential transition teams. It mandates an adjudication decision for personnel whose names are submitted by the President-elect by the date of the general election. In addition, each major party candidate for President shall provide, before the general election, requests for security clearance for prospective transition team members who will require access to classified information.

Sec. 5078. Reports

The NID shall submit annually a report to the appropriate Committees of Congress on agency progress towards meeting the performance goals laid out in Section 5076. The report shall also provide the NID recommendations for improvement and other appropriate matters.

EXPLANATION OF AMENDMENTS

The provisions of the amendment in the nature of a substitute are explained in this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. Legislative branch employees are not prohibited from receiving benefits incurred by this legislation.

STATEMENT OF UNFUNDED MANDATES

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This provides for reform of the Intelligence Community, improved terrorism prevention and prosecution, increased border security, and enhanced international cooperation and coordination. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

ROLLCALL VOTES OF THE COMMITTEE

Chairman Hoekstra offered an amendment in the nature of a substitute to H.R. 10, as introduced. It specified the text of the provisions of H.R. 10 within the Committee's jurisdiction that were being considered, namely Title I (Reform of the Intelligence Community) in its entirety; Subtitle D (Terrorist Travel) of Title III (Border Security and Terrorist Travel); and Subtitle B (Government Reorganization Authority) and Subtitle F (Security Clearance Modernization) of Title V (Government Restructuring).

The amendment also made three substantive modifications to the provisions of H.R. being considered. First, Section 1011 (Reorganization and Improvement of Management of Intelligence Community), amending Sections 102–104 of the National Security Act of

1947, was further amended to specify that the members of the National 1Intelligence Council shall be appointed by, report to, and serve at the pleasure of the National Intelligence Director.

Second, Section 1011 was further amended to make explicit that the National Intelligence Council, and its staff, conduct their responsibilities in a manner that ensures that the needs of policymaking officials and other consumers of intelligence are met. The provision was further modified to make explicit that the National Intelligence Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the Intelligence Community.

Third, Section 3102 (Terrorist Travel Program) was modified to require the Secretary of Homeland Security to consult with the Director of National Counterterrorism Center, established by Section 1021 (National Counterterrorism Center).

The Committee adopted the amendment in the nature of a substitute by a voice vote.

Motion to Table the Appeal of the Ruling of the Chair

Ms. Harman offered a resolution stating that it was the sense of the Congress that the House should use the text of Collins-Lieberman, S. 2845, as unanimously reported by the Senate Committee on Governmental Affairs, as the text considered by the House in lieu of the text of H.R. 10, as amended. Chairman Hoekstra ruled the Harman resolution as non-germane. Ms. Harman appealed the ruling of the Chair. Mr. Blunt made a motion to table the appeal. The motion to table was approved by a rollcall vote of 11 ayes to 8 noes.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Hoekstra, Chairman	X		
Mr. Blunt	X		
Mr. Gibbons	X		
Mr. LaHood	X		
Mr. Cunningham	X		
Mr. Burr	X		
Mr. Everett	X		
Mr. Gallegly	X		
Mr. Collins	X		
Ms. Davis	X		
Mr. Thornberry	X		
Ms. Harman		X	
Mr. Hastings			
Mr. Reyes		X	
Mr. Boswell		X	
Mr. Peterson		X	
Mr. Cramer		X	
Ms. Eshoo		X	
Mr. Holt		X	
Mr. Ruppersberger		X	

Harman Amendment—Amendment No. 2

Ms. Harman offered an amendment to add a Privacy and Civil Liberties Oversight Board for the Intelligence Community. The amendment was adopted by a rollcall vote of 16 ayes to 3 noes.

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Hoekstra, Chairman	X		
Mr. Blunt	X		
Mr. Gibbons	X		
Mr. LaHood		X	
Mr. Cunningham	X		
Mr. Burr	X		
Mr. Everett	X		
Mr. Gallegly	X		
Mr. Collins		X	
Ms. Davis		X	
Mr. Thornberry	X		
Ms. Harman	X		
Mr. Hastings			
Mr. Reyes	X		
Mr. Boswell	X		
Mr. Peterson	X		
Mr. Cramer	X		
Ms. Eshoo	X		
Mr. Holt	X		
Mr. Ruppersberger	X		

Harman Amendment—Amendment No. 4

Ms. Harman offered an amendment to substitute the provisions of S. 2845, the "National Intelligence Reform Act" for the provisions of H.R. 10 relating to the authorities of the National Intelligence Director to determine and present to the President the budget for the National Intelligence Program, to execute the funds appropriated for the Intelligence Community, and to reprogram funds within the various elements of the Intelligence Community, subject only to requirements imposed by the Director of the Office of Management and Budget and the Congress. The amendment was rejected by a rollcall vote of 8 ayes to 11 noes.

ROLLCALL NO. 3

	Ayes	Nays	Present
Mr. Hoekstra, Chairman		X	
Mr. Blunt		X	
Mr. Gibbons		X	
Mr. LaHood	X		
Mr. Cunningham		X	
Mr. Burr		X	
Mr. Everett		X	
Mr. Gallegly		X	
Mr. Collins		X	
Ms. Davis		X	
Mr. Thornberry		X	
Ms. Harman	X		
Mr. Hastings			
Mr. Reyes	X		
Mr. Boswell	X		
Mr. Peterson	X		
Mr. Cramer	X		
Ms. Eshoo	X		
Mr. Holt	X		
Mr. Ruppersberger	X		

Reyes Amendment—Amendment No. 5

Mr. Reyes offered an amendment to substitute the provisions of S. 2845, the "National Intelligence Reform Act", for the provisions of H.R. 10 relating to the authorities of the National Intelligence Director to recommend persons to be nominated by the President or to be appointed by the President or a Departmental Secretary to head an element of the Intelligence Community. The amendment was rejected by a roll call vote of 8 ayes to 11 noes.

ROLLCALL NO. 4

	Ayes	Nays	Present
Mr. Hoekstra, Chairman		X	
Mr. Blunt		X	
Mr. Gibbons		X	
Mr. LaHood		X	
Mr. Cunningham		X	
Mr. Burr		X	
Mr. Everett		X	
Mr. Gallegly		X	
Mr. Collins		X	
Ms. Davis		X	
Mr. Thornberry		X	
Ms. Harman	X		
Mr. Hastings			
Mr. Reyes	X		
Mr. Boswell	X		
Mr. Peterson	X		
Mr. Cramer	X		
Ms. Eshoo	X		
Mr. Holt	X		
Mr. Ruppersberger	X		

Gibbons Amendment—Amendment No. 6

Mr. Gibbons offered an amendment to remove certain limitations on the authority of the National Intelligence Director to transfer money between the components of the National Intelligence Program, including a transfer of funds that would result in the termination of a program. The amendment was adopted by a vote of 12 ayes to 7 noes.

ROLLCALL NO. 5

	Ayes	Nays	Present
Mr. Hoekstra, Chairman		X	
Mr. Blunt		X	
Mr. Gibbons	X		
Mr. LaHood		X	
Mr. Cunningham		X	
Mr. Burr	X		
Mr. Everett		X	
Mr. Gallegly	X		
Mr. Collins		X	
Ms. Davis	X		
Mr. Thornberry		X	
Ms. Harman	X		
Mr. Hastings			
Mr. Reyes	X		
Mr. Boswell	X		
Mr. Peterson	X		
Mr. Cramer	X		
Ms. Eshoo	X		

ROLLCALL NO. 5—Continued

	Ayes	Nays	Present
Mr. Holt	X		
Mr. Ruppersberger	X		

Eshoo Amendment—Amendment No. 7

Ms. Eshoo offered an amendment to require that National Intelligence Estimates contain certain characterizations regarding the intelligence used to formulate the estimate and certain underlying analytical assumptions. The amendment was rejected by a vote of 8 ayes to 11 noes.

ROLLCALL NO. 6

	Ayes	Nays	Present
Mr. Hoekstra, Chairman		X	
Mr. Blunt		X	
Mr. Gibbons		X	
Mr. LaHood		X	
Mr. Cunningham		X	
Mr. Burr		X	
Mr. Everett		X	
Mr. Gallegly		X	
Mr. Collins		X	
Ms. Davis		X	
Mr. Thornberry		X	
Ms. Harman	X		
Mr. Hastings			
Mr. Reyes	X		
Mr. Boswell	X		
Mr. Peterson	X		
Mr. Cramer	X		
Ms. Eshoo	X		
Mr. Holt	X		
Mr. Ruppersberger	X		

Boswell Amendment—Amendment No. 8

Mr. Boswell offered an amendment to strike Section 1025 (Initial Appointment of the National Intelligence Director) authorizing the President to appoint the person who is serving as Director of Central Intelligence at the time of the enactment to the new position of National Intelligence Director without obtaining the advice and consent of the Senate. The amendment was rejected on a roll call vote of 8 ayes to 11 noes.

ROLLCALL NO. 7

	Ayes	Nays	Present
Mr. Hoekstra, Chairman		X	
Mr. Blunt		X	
Mr. Gibbons		X	
Mr. LaHood		X	
Mr. Cunningham		X	
Mr. Burr		X	
Mr. Everett		X	
Mr. Gallegly		X	
Mr. Collins		X	
Ms. Davis		X	
Mr. Thornberry		X	
Ms. Harman	X		

ROLLCALL NO. 7—Continued

	Ayes	Nays	Present
Mr. Hastings			
Mr. Reyes	X		
Mr. Boswell	X		
Mr. Peterson	X		
Mr. Cramer	X		
Ms. Eshoo	X		
Mr. Holt	X		
Mr. Ruppersberger	X		

Motion to Report H.R. 10

On September 29, 2004, in open session, a quorum being present, the Permanent Select Committee on Intelligence ordered reported favorably to the House the amendment in the nature of a substitute, as amended, for the bill, H.R. 10, by a rollcall vote of 17 ayes to 2 noes.

ROLLCALL No. 8

	Ayes	Nays	Present
Mr. Hoekstra, Chairman	X		
Mr. Blunt	X		
Mr. Gibbons	X		
Mr. LaHood		X	
Mr. Cunningham	X		
Mr. Burr	X		
Mr. Everett	X		
Mr. Gallegly	X		
Mr. Collins	X		
Ms. Davis	X		
Mr. Thornberry	X		
Ms. Harman	X		
Mr. Hastings			
Mr. Reyes	X		
Mr. Boswell	X		
Mr. Peterson	X		
Mr. Cramer	X		
Ms. Eshoo	X		
Mr. Holt		X	
Mr. Ruppersberger	X		

CORRESPONDENCE

COMMITTEE ON EDUCATION AND THE WORKFORCE,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 1, 2004.

Hon. PETER HOEKSTRA,
Chairman, Select Committee on Intelligence, Washington, DC.

DEAR CHAIRMAN HOEKSTRA: I am writing to confirm our mutual understanding with respect to consideration of H.R. 10, the "9/11 Recommendations Implementation Act," which was referred to the Committee on Intelligence and in addition to the Committees on Armed Services, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and Select Homeland Security. I understand the desire to have this legislation considered expeditiously by

the House; hence, I do not intend to hold a hearing or markup on this legislation.

However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Education and the Workforce's jurisdictional interest and prerogatives on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future. Furthermore, should this provision or similar provisions be included by any Senate amendments thereto and considered in a conference with the Senate, I would expect Members of the Committee on Education and the Workforce be appointed as conferees on those provisions.

Finally, I would ask that you include a copy of our exchange of letters on this matter during House debate of the bill. If you have questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

JOHN A. BOEHNER,
Chairman.

HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, October 1, 2004.

Hon. JOHN BOEHNER,
Chairman, Select Committee on Education and Workforce, Washington, DC.

DEAR CHAIRMAN BOEHNER: Thank you for your letter of October 1, 2004, regarding H.R. 10 the 9/11 Recommendations Implementation Act. As you noted, elements of the bill as reported fall within the Rule X jurisdiction of the Committee on Education and Workforce. I will continue to work with you on these sections and will support the Commmittee on Education and Workforce's request to the Speaker for conferees on these provisions.

I appreciate your willingness to forgo consideration of the bill at a hearing or markup in the interests of expediting consideration of the bill.

I acknowledge that by agreeing to waive consideration of the bill, the Committee on Education and Workforce does not waive its jurisdiction over the bill or any of the matters under your jurisdiction. I will include a copy of your letter and this response in our Committee's report on H.R. 10 and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your assistance in this matter.

Sincerely,

PETER HOEKSTRA,
Chairman.

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON HOMELAND SECURITY,
Washington, DC, October 1, 2004.

Hon. PETER HOEKSTRA,
Chairman, House Permanent Select Committee on Intelligence, Washington, DC.

DEAR CHAIRMAN HOEKSTRA: In recognition of the importance of expediting passage of H.R. 10, the "9/11 Recommendations Implementation Act," the Select Committee on Homeland Security hereby waives further consideration of the bill.

The Select Committee on Homeland Security takes this action with the understanding that its jurisdiction over the Department of Homeland Security and homeland security matters generally are in no way diminished or altered. In addition, the Select Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I would appreciate your including this letter in the Committee Report on the bill. Thank you for your consideration.

Sincerely,

CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, October 1, 2004.

Hon. CHRISTOPHER COX,
Chairman, Select Committee on Homeland Security, Washington, DC.

DEAR CHAIRMAN COX: Thank you for your letter of October 1, 2004, regarding H.R. 10, the 9/11 Recommendations Implementation Act. As you noted, elements of the bill as reported fall within the Rule X jurisdiction of the Select Committee on Homeland Security. I will continue to work with you on these sections and will support the Select Committee on Homeland Security's request to the Speaker for conferees on these provisions.

I appreciate your willingness to waive further consideration of the bill in the interests of expediting consideration of the bill.

I acknowledge that by agreeing to waive consideration of the bill, the Select Committee on Homeland Security does not waive its jurisdiction over the bill or any of the matters under your jurisdiction. I will include a copy of your letter and this response in our Committee's report on H.R. 10 and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your assistance in this matter.

Sincerely,

PETER HOEKSTRA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 28, 2004.

Hon. PETER HOEKSTRA,
Chairman, Permanent Select Committee on Intelligence, Washington, DC.

DEAR CHAIRMAN HOEKSTRA: I am writing concerning H.R. 10, the "9/11 Recommendations Implementation Act," that was introduced on Friday, September 24, 2004. Several provisions of the bill fall within the jurisdiction of the Committee on Ways and Means.

The Committee on Ways and Means recommended the inclusion of the provisions in Sections 3071 through 3076 of H.R. 10, which enhance the integrity and privacy of Social Security numbers (SSNs) and serve to prevent identity fraud by terrorists and other criminals. These provisions are also part of H.R. 2971, the "Social Security Number Privacy and Identity Theft Prevention Act of 2004," which was approved by the Committee on July 21, 2004. Because the Committee has already approved the language in these sections, no further action on the Committee's part is necessary.

In addition, Section 3052 of the bill would require State departments of motor vehicles (DMVs) to verify an individual's SSN or verify that the individual does not qualify for an SSN. Authority for State DMVs to require disclosure of SSNs is in the Social Security Act and would create administrative duties for the Social Security Administration (SSA). As a result, the provision falls within the jurisdiction of the Committee on Ways and Means.

Finally, Section 3064 of the bill requires the Commissioner of the SSA to consult with the Secretary of Health and Human Services to establish standardized birth and death registration systems. It also establishes new data sharing between the SSA and the Departments of Defense and State. These provisions fall within the jurisdiction of the Committee on Ways and Means because they would create additional administrative duties for the SSA.

However, the Committee will not take action on Sections 3052 and 3064 of the bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 10, and would ask that a copy of our exchange of letters on this matter be included in your committee report.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, October 1, 2004.

Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your letter of October 1, 2004, regarding H.R. 10, the 9/11 Recommendations Implemen-

tation Act. As you noted, elements of the bill as reported fall within the Rule X jurisdiction of the Committee on Ways and Means. I will continue to work with you on these sections and will support the Committee on Ways and Means' request to the Speaker for conferees on these provisions.

I appreciate your willingness to forgo action on those sections of the bill that fall within your jurisdiction in the interests of expediting consideration of the bill.

I acknowledge that by agreeing to waive consideration of the bill, the Committee on Ways and Means does not waive its jurisdiction over the bill or any of the matters under your jurisdiction. I will include a copy of your letter and this response in our Committee's report on H.R. 10 and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your assistance in this matter.

Sincerely,

PETER HOEKSTRA,
Chairman.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 3(l) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 10, from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 4, 2004.

Hon. PETER HOEKSTRA,
Chariman, Permanent Select Committee on Intelligence,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 10, the 9/11 Recommendation Implementation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Raymond J. Hall.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 10—9/11 Recommendations Implementation Act

Summary: H.R. 10 would affect the intelligence community, terrorism prevention and prosecution, and border security, as well as international cooperation. Title I would establish an Office of the National Intelligence Director (NID) to manage and oversee intelligence activities of the U.S. government, including foreign intelligence organizations to that office and would establish a National Counterterrorism Center and one or more national intelligence centers within the Office of the NID. Title II would authorize funding for law enforcement, counterterrorism activities, and programs related to aviation safety. Title II would increase the number of agents performing border security and immigration functions, improve the security of identity documents such as drivers licenses, and increase the number of consular officers within the Department of State. Title IV would authorize funds for a number of international cooperation programs. Finally, Title V would reauthorize and restructure several homeland security programs.

CBO estimates that implementing H.R. 10 would cost about $550 million in 2005 and $14.4 billion over the 2005–2009 period, assuming appropriation of the specified and estimated amounts. That total does not include possible additional costs associated with implementing provisions dealing with the creation of an interoperable data system for exchanging law enforcement and intelligence data or the establishment of a Federal Bureau of Investigation (FBI) reserve service because CBO does not have sufficient information to estimate those costs at this time. With regard to the FBI reserve service, CBO cannot predict when a national emergency would occur, but expects that costs for the proposed reserve service would likely be insignificant in most years.

The bill also contains provisions that would decrease direct spending. In particular, it would establish a fund within the Department of Homeland Security (DHS) to enhance efforts to detect explosives at security checkpoints in airports; authorize the collection and spending of $30 million a year of fees airline passengers in 2005 and 2006 for that purpose; allow the Director of the FBI to waive the mandatory retirement requirement for agents until age 65; and extend indefinitely the authority of the Central Intelligence Agency (CIA) to offer incentive payments to employees who voluntarily retire or resign. CBO estimates that enacting those provisions would decrease direct spending by about $25 million in 2005, $4 million over the 2005–2009 period, and $2 million over the 2005–2014 period. The estimate of direct spending does not include the effects of extending the authority of the CIA to offer incentive payments to employees who voluntarily retire or resign because the data needed to prepare such an estimate are classified. Enacting H.R. 10 would not affect receipts.

H.R. 10 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that those mandates, in aggregate, would impose costs on state, local, and tribal governments totaling more than $600 million over fiscal years 2005 through 2009. CBO estimates that the costs in at least one of those years would exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation). The bill would authorize appropriations for grants to states to cover

such costs. H.R. 10 contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 10 is summarized in Table 1. The costs of this legislation fall within budget functions 050 (national defense), 400 (transportation), 450 (community and regional development), 550 (health), 750 (administration of justice), and 800 (general government).

Basis of estimate: Most of H.R. 10's effects on the federal budget would be subject to appropriation of amounts necessary to implement the bill. For this estimate, CBO assumes that the bill will be enacted by the end of the calendar year, that all such amounts will be appropriated near the start of each fiscal year, and that outlays will follow historical patterns for similar activities.

TABLE I.—BUDGETARY IMPACT OF H.R. 10, THE 9/11 RECOMMENDATIONS IMPLEMENTATION ACT, AS ORDERED REPORTED BY THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [1]					
Estimated authorization level	1,134	5,025	1,341	4,697	5,261
Estimated outlays	533	4,289	2,093	3,265	4,263
CHANGES IN DIRECT SPENDING [2]					
Estimated budget authority	*	*	*	*	*
Estimated outlays	−25	−12	19	10	5

Note.—Between zero and −$500,000.

[1] These amounts do not include the costs of section 2192 because CBO cannot estimate such costs at this time. The amounts also exclude the costs associated with establishing a reserve service within the Federal Bureau of Investigation. Any such costs would be insignificant in most years, and CBO has no basis for predicting when a national emergency would occur.

[2] These amounts do not include the costs of section 1061 because the data needed to prepare an estimate are classified.

Spending Subject to Appropriation

H.R. 10 contains provisions that would affect the intelligence community, terrorism prevention and prosecution, and border security, as well as international cooperation and coordination. Table 2 presents CBO's estimates of the cost of those provisions. In total, we estimate that implementing H.R. 10 would cost $14.4 billion over the 2005–2009 period, assuming appropriation of the specified and estimated amounts. That total does not include the possible additional costs associated with implementing provisions dealing with the creation of an interoperable data system for exchanging law enforcement and intelligence data or the establishment of an FBI reserve service because CBO does not have sufficient information to estimate those costs at this time. With regard to the FBI reserve service, CBO cannot predict when a national emergency would occur, but expects that costs for the proposed reserve service would likely be insignificant in most years.

TABLE 2.—ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 10 AS ORDERED REPORTED BY THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
Reform the intelligence community:					
Estimated authorization level	40	235	75	90	70
Estimated outlays	30	60	110	145	140

TABLE 2.—ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 10 AS ORDERED REPORTED BY THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE—Continued

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
Combating financial crimes:					
Authorization Level	51	0	0	0	0
Estimated outlays	36	15	0	0	0
Aviation security:					
Estimated authorization level	528	4,343	330	0	0
Estimated outlays	238	3,666	957	340	0
Improve intelligence capabilities of the FBI:					
Estimated authorization level	4	5	6	7	8
Estimated outlays	3	5	6	8	8
Increase the number of border patrol and immigration agents:					
Estimated authorization level	0	174	526	981	1,451
Estimated outlays	0	165	509	958	1,427
Grants to improve security of driver's licenses:					
Estimated authorization level	80	30	30	10	10
Estimated outlays	80	30	30	10	10
New standards for issuance of birth and death certificates:					
Estimated authorization level	330	20	30	40	50
Estimated outlays	70	150	160	35	45
Expand immigration services at foreign airports:					
Authorization level	49	88	137	0	0
Estimated outlays	39	80	127	28	0
Increase the number of consular officers:					
Estimated authorization level	0	33	62	93	125
Estimated outlays	0	27	54	84	115
Reform international cooperation and coordination:					
Estimated authorization level	17	17	17	7	7
Estimated outlays	7	15	17	15	9
First-responder grants:					
Estimated authorization level	0	0	0	3,314	3,381
Estimated outlays	0	0	0	1,491	2,350
Counternarcotics office:					
Estimated authorization level	6	6	6	6	6
Estimated outlays	4	6	6	6	6
Security clearance modernization:					
Estimated authorization level	23	68	116	143	147
Estimated outlays	21	64	111	140	147
Public safety communications interoperability:					
Estimated authorization level	6	6	6	6	6
Estimated outlays	5	6	6	6	6
Total changes: [1]					
Estimated authorization level	1,134	5,025	1,341	4,697	5,261
Estimated outlays	533	4,289	2,093	3,265	4,263

[1] These amounts do not include the costs of section 2192 because CBO cannot estimate such costs at this time. The amounts also exclude the costs associated with establishing a reserve service within the Federal Bureau of Investigation. Any such costs would be insignificant in most years, and CBO has no basis for predicting when a national emergency would occur.

Note.—FBI = Federal Bureau of Investigation.

Reform the Intelligence Community. Title I would reform the intelligence community by establishing the position of National Intelligence Director and an Office of the National Intelligence Director to manage and oversee intelligence activities of the U.S. government, including foreign intelligence and counterintelligence activities. The legislation also would transfer some existing organizations, specifically the Office of the Deputy Director of Central Intelligence for Community Management and the Terrorist Threat Integration Center (TTIC), to that office and would establish a National Counterterorism Center and one or more national intelligence centers within the Office of the NID. The bill would expand language training within the intelligence community and authorize addi-

tional scholarships for new recruits. Finally, the legislation would establish a civilian linguist reserve corps.

CBO estimates that implementing title I and other provisions relating to the intelligence community would cost about $490 million over 2005–2009 period (see Table 3). These costs are in addition to those that would be incurred under current law by the Office of the Deputy Director of Central Intelligence for Community Management and the Terrorist Threat Integration Center. The estimated costs include expenses to establish, house, and administer the new Office of the National Intelligence Director and implement other specified programs, such as improving training programs and establishing a scholarship program.

TABLE 3.—ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION FOR REFORMING THE INTELLIGENCE COMMUNITY UNDER H.R. 10 AS ORDERED REPORTED BY THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
Create the Office of the National Intelligence Director:					
Estimated authorization level	15	210	50	80	60
Estimated outlays	10	35	80	135	130
Other program authorizations:					
Estimated authorization level	25	25	25	10	10
Estimated outlays	20	25	25	10	10
Total changes:					
Estimated authorization level	40	235	75	90	70
Estimated outlays	30	60	110	145	140

Create the Office of the National Intelligence Director. CBO estimates that establishing, housing, and administering the Office of the NID would cost about $390 million over the 2005–2009 period.

The bill would transfer the Office of the Deputy Director of Central Intelligence for Community Management (identified as the Intelligence Community Management Account within the budget) and the TTIC to the Office of the NID.

The Intelligence Community Management Account (ICMA) was established by Congressional direction to provide resources that directly support the Director of the Central Intelligence Agency and the intelligence community as a whole in coordinating cross-program activities. Because part of its budget is classified, CBO does not know the overall size of this organization. Unclassified budgets for the ICMA indicate that the office has a staff of about 300 people who develop the National Foreign Intelligence Program budget, oversee research and development activities, and develop intelligence plans and requirements, but the Congress also authorizes and appropriates funds for additional staff in the classified portion of the intelligence budget.

Similarly, CBO has no budget information on the TTIC, but public information released by the White House indicates that the center opened in May 2003 with a staff of about 60 people working alongside the counterterrorism offices of the Federal Bureau of Investigation and the CIA. That same information indicates that the Administration expects to eventually staff the TTIC with between 200 and 300 people to serve as the hub for all intelligence regarding terrorist threats.

CBO expects that the NID would require staff to perform its authorized functions in addition to the staff transferred from the ICMA and the planned staff for the TTIC. Because much of the detailed information regarding the organization, staffing levels, and budgets of the intelligence community are classified at a level above clearances held by CBO employees, CBO has used information about staff requirements from similar organizations within the Department of Defense (DoD), the Department of Homeland Security, and other federal agencies to attempt to estimate the number of additional staff that might be needed by the NID. Based on that analysis, CBO estimates that the NID might need to hire around 300 new staff, including appointees such as principal and deputy directors, key managers such as a general counsel, a civil liberties protection officer, personnel to perform administrative functions such as policy development and budget and finance activities, and personnel for the National Counterterrorism Center and one or more national intelligence centers. CBO expects that many of these new hires would be staff transferred from other organizations within the intelligence community but that those other organizations would eventually fill many of the vacated positions within their organizations over about a four year period following enactment of this legislation.

Based on information about the staffing levels and costs for the administrative offices of the Department of Defense, the Department of Homeland Security, and other agencies, CBO estimates that the personnel and related expenses to provide centralized leadership, coordination, and support and analytical services for the Office of the National Intelligence Director would eventually cost around $45 million annually, but that costs would be much lower in the first few years as positions are filled. CBO estimates that such costs would be minimal in the first year and total about $130 million over the 2005–2009 period.

Section 1094 would express the sense of the Congress that the permanent location of the NID headquarters be at a location other than the George Bush Center for Intelligence in Langley, Virginia. For this estimates, CBO assumes that the Director's office and associated staff would occupy the space currently used by the Intelligence Community Management staff until fiscal year 2007. Starting in 2007, CBO assumes that the office would move to new office space in a building owned by the General Services Administration (GSA) until a new building can be built for its use. CBO estimates that initially GSA would need to renovate and furnish office space for the NID staff. (After 2009, CBO expects that these positions would be relocated to the new permanent NID headquarters.) CBO estimates that the GSA rental payments would reach about $20 million a year and total about $40 million over the 2007–2009 period. Additional costs to purchase computers, network equipment, and supplies in the first few years following the relocation into the GSA-owned building also would be significant. CBO estimates that those costs would total $30 million over the 2007–2009 period.

CBO assumes that GSA would construct a new building on land already owned by the federal government to serve as the headquarters for the Office of the NID. Based on information provided by GSA about recent federal office building projects, CBO estimates that planning and design of the new headquarters would cost $15

million over the 2005–2006 period, and that constructing the facility to house NID employees would cost about $175 million over the 2006–2009 period. (An additional $20 million in spending would occur in 2010 to complete construction of the new building.) CBO assumes that the headquarters would be located on property already owned by the federal government in the Washington, D.C. area. If GSA had to buy land for the building site, costs would be higher. CBO assumes that construction of the new facility would not start until sometime in late 2006 and would be completed after 2009. Therefore, CBO estimates that no costs associated with furnishing, equipping, and maintaining the new space would be incurred during the 2005–2009 period nor would there be costs to relocated NID staff from the interim offices to the new headquarters over that period.

Other Program Authorizations. Title I also would authorize the President and the NID to initiate or enhance several programs within the intelligence community. Based on information from the Administration and on the costs of other similar efforts, CBO estimates that those efforts would cost about $20 million in 2005 and total around $90 million over the 2005–2009 period, subject to appropriation of the specified and estimated amounts.

• Section 1052 would authorize the appropriation of an additional $2 million a year to carry out the grant program for the National Flagship Language Initiative, which was established to improve higher education in foreign languages that the Secretary of Defense has identified as critical to the interests of the national security of the United States. CBO estimates that implementing this section would cost $10 million over the 2005–2009 period, assuming appropriation of the specified amounts.

• Section 1053 would establish a new scholarship program within the National Security Education Trust Fund. The scholarships would be available to students who are U.S. citizens and are native speakers of a foreign language that is identified as critical to the national security interests of the United States. The scholarships would enable those students to pursue English language studies at an institution of higher education in the United States to attain proficiency in those skills. The bill would authorize the appropriation of $4 million a year starting in 2005 for these scholarships. CBO estimates that the costs for the scholarship program would total about $20 million over the 2005–2009 period, assuming appropriation of the specified amounts.

• Section 1055 would establish a program operated jointly by the NID and the Department of Defense to advance foreign language skills in languages that are critical to the capability of the intelligence community to carry out national security activities. Under this provision, personnel from the intelligence community could be reimbursed for the total cost of tuition and training in foreign language studies undertaken at educational institutions that have entered into educational partnerships with the U.S. government. In addition, federal agencies would be allowed to provide financial assistance to those educational institutions, including the loan of equipment and instructional materials. CBO has no specific information about how this joint NID/DoD program would be implemented. Assuming that participation levels would be similar to those for another foreign language program offered within the Na-

tional Security Education Trust Fund, CBO estimates that the new program would cost about $1 million a year.

• Section 1056 would allow the NID to establish a civilian linguist reserve corps consisting of U.S. citizens with advanced levels of proficiency in foreign languages. CBO assumes that members of the reserve corps would receive pay, transportation, and per diem when preforming work for the federal government as requested by the President. The pilot project would be conducted for a three-year period, starting in 2005. Based on information provided by the staff of the National Security Education Program, CBO expects that the reserve corps would consist of about 150 people at any given time and cost about $50 million over the 2005–2007 period.

• Section 1062 would establish an Emerging Technologies Panel within the National Security Agency to advise the NID on the research, development, and application of existing and emerging science and technology advances, advances in encryption, and other topics. Based on the budgets of other advisory panels, CBO estimates that the costs to operate this panel would be about $1 million in 2005 and would total $10 million over the 2005–2009 period.

Combating Financial Crimes. Sections 2101 and 2102 would authorize the appropriation of $51 million for fiscal year 2005 for the Financial Crimes Enforcement Center to improve its computer systems and to assist states and localities in combating financial crimes. CBO estimates that this provision would result in outlays of $36 million in 2005 and $15 million in 2006, assuming appropriation of the specified amount.

Aviation Security. Title II would authorize the appropriation of the funds necessary to continue aviation security programs in 2006 and to deploy explosive-detection equipment at airport check points. Based on information from DHS and current funding levels, CBO estimates that title II would authorize the appropriation of about $5.2 billion over the 2005–2007 period for aviation security programs administered by the Department of Homeland Security. We estimate that most of that amount—roughly $4 billion—would be authorized to be appropriated in fiscal year 2006 for ongoing programs administered by the Transportation Security Administration (TSA) and for the federal air marshals. (That estimate is net of almost $2 billion in offsetting collections from passenger and air-carrier fees that we assume will continue to be collected by DHS in 2006 to partly offset the cost of aviation security programs in that year.) This estimate also includes almost $1 billion over the 2005–2007 period for installing explosive-detection equipment at airport screening checkpoints and $70 million in 2005 for programs to better control access to airports, improve passenger screening, and train federal law enforcement officials in certain counterterrorism measures. In addition, title II would specifically authorize the appropriation of $95 million in 2005 for security projects at airports and $2 million for a pilot program to test technology to reduce the threat of explosions of baggage and cargo on commercial flights. Assuming appropriation of the specified and estimated amounts, CBO estimates that implementing all of these provisions would cost $238 million in 2005 and $5.2 billion over the 2005–2009 period.

Improve the Intelligence Capabilities of the FBI. Section 2193 would direct the FBI to continue to improve the intelligence capa-

bilities of the bureau and to develop and maintain a national intelligence workforce within the FBI. Today, the FBI spends about $30 million on counterterrorism training. Since 2002, more than 1,500 agents have been added to the bureau's staff to meet its counterterrorism mission, an increase of about 20 percent. In addition, since the events of September 11, 2001, the FBI has partnered with other intelligence agencies to provide training in counterterrorism and counterintelligence to its staff, and it plans to increase that training in the future. CBO assumes that implementation of this bill would require the agency to conduct more extensive training than is currently planned. Based on information from the bureau, we estimate that this additional training would cost $3 million in 2005 and almost $30 million over the 2005–2009 period, assuming appropriation of the necessary amounts.

Interoperable Law Enforcement and Intelligence Data System. Under the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173), the Administration is required to integrate all law enforcement data into an interoperable electronic data system known as the Chimera system. However, the act did not establish a firm date by which the Administration must deploy a fully operational Chimera system. Section 2192 would transfer the responsibility for this activity to the NID. The provision would direct the NID to design a state-of-the-art Chimera system with both biometric identification and linguistic capabilities satisfying the best technology standards, and to deliver a fully operational system by September 11, 2007, for use by the intelligence community, federal law enforcement agencies, and counterterrorism personnel to collect and share information. Although CBO believes that establishing a firm deadline for the operational system would likely result in increased discretionary spending in the near term, CBO does not have sufficient information to estimate that increase at this time. Absent information as to whether this transfer would result in changes to the system, CBO also cannot estimate whether any long-term costs would result from this transfer.

Increase the Number of Border Patrol and Immigration Agents. Sections 3003 and 3004 would direct DHS to increase the number of border patrol agents by 2,000 per year and the number of investigators of immigration violations by 800 each year over the 2006–2010 period. Implementing this provision would increase the number of federal agents by 14,000 by 2010. Assuming appropriation of the necessary amounts, CBO estimates that this provision would cost $165 million in fiscal year 2006 and $3.1 billion over the 2006–2009 period.

Grants to Improve the Security of Driver's Licenses. Section 3055 would authorize the appropriation of such sums as necessary for fiscal years 2005 through 2009 for DHS to make grants to states to cover the costs of improving the security of driver's licenses as required by the bill. Based on information from states and from the American Association of Motor Vehicle Administrators (AAMVA), CBO estimates that implementing this provision would cost $80 million in 2005 and $160 million over the 2005–2009 period, assuming appropriation of the necessary amounts.

New Standards for Issuance of Birth and Death Certificates. Sections 3062 and 3063 would require new federal standards governing the issuance and management of birth certificates recog-

nized by the federal government. Section 3064 would require the establishment of a uniform electronic birth and death registration system, and section 3065 would extend that system to allow electronic verification of vital records.

Maintaining birth and death records has long been a function of state governments. The Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention (CDC), currently works with states to compile birth and death data for epidemiological studies. H.R. 10 would authorize the Secretary to expand that cooperation to the formal linking of birth and death records for purposes of preventing fraud and other government uses. The bill also would authorize the appropriation of such sums as may be necessary for these activities, including grants to states to comply with these new requirements.

Based on information from the CDC and the National Association for Public health Statistics and Information Systems, CBO estimates that implementing the new security standards and building the electronic system of vital records would cost $460 million over the 2005–2009 period, assuming appropriation of the necessary amounts. That cost would be for grants to states the meet the new federal requirements. Of these amounts, $70 million in 2005 and $330 million over the 2005–2009 period would cover start-up costs, including digitalizing old birth and death certificates, building electronic systems for reporting deaths in some states, upgrading security arrangements, and acquiring computer infrastructure. CBO estimates that operating the new system for vital records over the 2006–2009 period would cost $130 million. We expect that the system would be fully operational in 2009, at which point annual operating costs would total $50 million.

Expand Immigration Services at Foreign Airports. Sections 3082 and 3083 would authorizes the appropriation of $49 million for 2005, $88 million for 2006, and $137 million for 2007 for DHS to expand preinspection services and immigration security at foreign airports. CBO estimates that implementing this provision would cost $274 million over the 2005–2009 period, assuming appropriation of the specified amounts.

Increase the Number of Consular Officers. Section 3084 would authorize the Secretary of State to increase the number of consular officers by 150 each year over the number allotted in the previous year during the 2006–2009 period. It also would authorize the Secretary to provide additional training to consular officers in the detection of fraudulent documents presented by applicants for admission into the United States. Based on the average cost of training and stationing consular officers overseas, CBO estimates that implementing the provision would cost $27 million in 2006 and $280 million over the 2006–2009 period.

Reform International Cooperation and Coordination. Title IV would require the President to produce numerous reports, express the sense of the Congress on many issues, and urge the President to seek agreements with other countries to improve cooperation in the global fight against terrorist organizations. The title also would authorize some additional spending. Subtitle D, the Afghanistan Freedom Support Act Amendments of 2004, would authorize additional rule-of-law, disarmament, and counternarcotics activities in Afghanistan by the U.S. Department of State, but would not in-

crease the overall authorization of appropriations above the $425 million authorized for each of fiscal years 2005 and 2006 in current law.

Title IV contains three indefinite authorizations of appropriations and other provisions that CBO estimates would cost $7 million in 2005 and $63 million over the 2005–2009 period, assuming appropriation of the necessary amounts. In the cases where the same provision has been included in other bills at specified authorization levels, CBO used that authorization level for this estimate. CBO assumes that spending for these programs will follow the historical pattern of similar programs.

• Section 4041 would authorize the appropriation of such sums as may be necessary in 2005, 2006, and 2007 to provide grants to American-sponsored schools in predominately Muslim countries to provide scholarships to students from lower- and middle-income families of those countries. H.R. 4303, the American Education Promotion Act, as ordered reported by the House Committee on International Relations on June 24, 2004, would authorize the appropriation of $5 million each year for such grants. The amounts is included in this estimate.

• Section 4042 would authorize the appropriation of such sums as may be necessary in 2005, 2006, and 2007 for grants by the National Endowment for Democracy to enhance free and independent media worldwide. H.R. 1950, the Foreign Relations Authorization Act, Fiscal Years 2004 and 2005, as reported by the House Committee on International Relations on May 16, 2003, would have authorized $15 million for such grants. CBO assumes the amount would be provided in three equal installments over the three-year period.

• Section 4103 would authorize the appropriation of such sums as may be necessary for programs to reduce the number of shoulder-fired missiles. For the purpose of the estimate, CBO assumed the appropriation of $5 million each year, an amount similar to the cost of other programs for reducing the availability of small areas.

• Section 4035 would establish within the Department of State and Office on Multilateral Negotiations. In our estimate for H.R. 4053, the United States International leadership Act of 2004, as ordered reported by the House Committee on International Relations on March 31, 2004, CBO estimated that establishing and operating an Office on Multilateral Negotiations would cost $2 million a year.

• Sections 4011 and 4012 would require the Secretary of State to fill vacancies on the Arms Control and Nonproliferation Advisory Board and to provide resources to procure the services of experts and consultants. Based on the cost of other advisory boards, CBO estimates that implementing these sections would cost less than $200,000 a year.

First-Responder Grants. Subtitle A of title V would authorize funding for grants to state and local governments for staff and equipment to respond to acts of terrorism and natural disasters. It would authorize the Secretary of the Department of Homeland Security to change the criteria used to distribute funding for four existing first-responder grant programs—the State Homeland Security, the Urban Area Security Initiative, the Law Enforcement Terrorism Prevention, and the Citizen Corps grants programs. Assuming appropriation of the necessary funds, CBO estimates that im-

plementing this subtitle would cost $3.8 billion over the 2008–2009 period.

Almost $10 billion has been appropriated for first-responder grants since fiscal year 2003, including about $3 billion in fiscal year 2004. The Office of Domestic Preparedness (within DHS) derives its primary authority to distribute grants to states and localities to prepare and respond to terrorism from the USA Patriot Act (Public Law 107–56). That law authorized the appropriation of such sums as necessary for first-responder grants through fiscal year 2007. This subtitle would supersede this authority for first-responder grants in the Patriot Act and continue the authorization to appropriate such sums as necessary after 2007.

For this estimate, CBO assumes that the amount in CBO's baseline—$3.3 billion—would be appropriated for first-responder grants in 2008 and that 2009 funding levels for first-responder grants would continue at that level, adjusted for anticipated inflation.

Counternarcotics Office. Section 5021 would authorize the appropriation of $6 million in fiscal year 2005 to strengthen the authority of the Counternarcotics Officer at DHS. Under the bill, the Office of Counternarcotics Enforcement would be responsible for coordinating policies and federal operations aimed at preventing the entry of illegal drugs into the United States. DHS currently has a Counternarcotics Officer within the Chief of Staff's office. According to that office, the Counternarcotics Office is working with limited authority to coordinate the agency's anti-drug effort. Assuming the appropriation of the necessary amounts to continue this effort over the next five years, CBO estimates that implementing this provision would cost $28 million over the 2005–2009 period.

FBI Reserve Service. Section 5053 would allow the FBI to establish a reserve service consisting of former employees of the FBI who would be eligible for temporary reemployment during a period of national emergency. Under the bill, the total number of personnel in this reserve service could not exceed 500 individuals. Members of the reserve service would receive reimbursement for transportation and per diem expenses when participating in any training, and members who are retired federal employees would be allowed to collect both pay and retirement benefits during their period of reemployment. CBO cannot predict when a national emergency might occur, so no costs are included in this estimate for activating the proposed FBI Reserve Service. In most years, CBO expects that the cost associated with the reserve service would be insignificant—mostly covering limited training time, per diem, and transportation expenses. In an emergency, if all members of the reserve corps were reemployed for six months, the costs would total about $25 million.

Security Clearance Modernization. Beginning five years after enactment of this bill, section 5076 would require the Office of Personnel Management (OPM) to achieve a 60-day turnaround period for all security clearances requested by federal agencies. Currently, OPM anticipates that by the fall of 2005 the typical turnaround period for security clearances will be approximately 120 days. Based on information from OPM, CBO expects that approximately 1,700 new investigators would have to be hired over the next three years to meet the 60-day standard. With an average annual cost of about $80,000 per investigator, and assuming the appropriation of the

necessary amounts, CBO estimates that this provision would cost $483 million over the 2005–2009 period.

Interoperability of Public Safety Communications. Section 5131 would establish a program within DHS to provide assistance and training to enhance the interoperability of public safety communication among federal, state, and local governments in high-risk jurisdictions. DHS currently conducts activities to enhance communications; however, according to that office, it is working with limited funds and legal authority. Based on information from DHS, CBO estimates that implementing this section would cost $29 million over the 2005–2009 period.

Direct spending

The bill contains provisions that would decrease direct spending (see Table 4). CBO estimates that enacting those provisions would decrease direct spending by about $25 million in 2005, $4 million over the 2005–2009 period, and $2 million over the 2005–2014 period. The estimate of direct spending does not include spending associated with extending the authority of the CIA to offer incentive payments to employees who voluntarily retire or resign because the data needed to prepare such an estimate are classified.

TABLE 4.—CHANGES IN DIRECT SPENDING UNDER H.R. 10 AS ORDERED REPORTED BY THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE [1]

	By fiscal year, in millions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Estimated budget authority	*	*	*	*	*	*	*	*	*	*
Estimated outlays	−25	−12	19	10	5	3	*	*	*	*

[1] These amounts do not include the costs of section 1061 because the data needed to prepare an estimate are classified.
Note.—*= Between zero and −$500,000.

Authority to Offer Incentive Payments to Employees of the CIA Who Voluntarily Resign or Retire. Section 1061 would extend indefinitely the authority of the CIA to offer incentive payments to employees who voluntarily retire or resign. Under current law, this authority would expire on September 30, 2005. This section also would eliminate the requirement that the CIA make a deposit to the Civil Service Retirement and Disability Fund equal to 15 percent of final pay for each employee who accepts an incentive payment. Extending authority to offer incentive payments to these employees could increase outlays from the Civil Service Retirement System in the near term, although those amounts would be offset by reduced retirement payments in later years. CBO cannot provide an estimate of the direct spending effects because the data needed for such an estimate are classified.

Aviation Security. Section 2177 would establish a fund within DHS to enhance efforts to detect explosives at security checkpoints in airports. The bill would authorize the collection and spending of $30 million a year of fees from airline passengers in 2005 and 2006.

The cost of the new program would be offset by fee collections authorized under the bill. TSA already collects a $2.50 fee from airline passengers each time they board an aircraft (with a maximum of $5.00 per one-way trip). Under current law, such fees may be collected only to the extent provided for in advance in appropria-

tions acts, and income from those fees is recorded as an offset to appropriated spending. H.R. 10 would require TSA to collect up to $30 million a year from passengers without appropriation action. Under H.R. 10, we estimate that the agency would collect that amount each year. Because H.R. 10 would cause such fees to be used to finance the activities related to explosives detection at airport checkpoints, such fees would not be available to reduce the costs of other TSA spending. In other words, the collections under H.R. 10 would lead to a reduction in the amount of fees recorded as offsets to appropriated spending—essentially changing some discretionary offsetting collections into mandatory offsetting receipts.

Based on historical spending patterns for similar activities, CBO estimates that fees collected under this provision would exceed the amounts actually spent for explosives detection for the next few years. Hence, we estimate that enacting section 2177 would reduce net direct spending by $37 million in 2005 and 2006, but would increase net direct spending in later years and have no net impact on the budget over the 2005–2014 period.

Increased Fines for New Federal Crimes. Several sections in title II would establish new federal crimes for offenses relating to the commission of terrorist acts. Because those prosecuted and convicted under the bill could be subject to fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are deposited as receipts in the Crime Victims Fund and later spent. CBO expects any additional revenues and direct spending under the bill would be negligible because of the small number of cases involved.

Authority to Waive Separation Age Requirement for FBI Agents. Section 5051 would provide the FBI with the ability to allow agents to remain at the agency beyond the age of 60. Under current law, FBI agents are required to retire at age 57, although the agency's director may waive that requirement until the agent turns 60. This section would allow the director to waive the mandatory retirement requirement until age 65. This authority would last through the end of 2009, at which time the waiver authority would revert to current law. Information provided by the FBI indicates that the agency issues waivers to between 25 and 75 employees annually. By expanding the current waiver authority, CBO expects the bill would cause some FBI employees to retire later than they otherwise would have. We anticipate this would cause retirement annuities to fall in the near term, and to increase after the expanded waiver authority expires in 2009. CBO estimates this section would reduce direct spending for retirement benefits by less than $500,000 in 2005 and by a total of $2 million over the 2005–2014 period.

Estimated impact on state, local, and tribal governments: H.R. 10 contains several intergovernmental mandates as defined in UMRA. The major mandates would require state, local, and tribal governments to significantly change the way they process and issue driver's licenses, identification cards, and birth and death certificates. The costs to state, local, and tribal governments would depend on federal regulations that are yet to be developed. However, based on information from state agencies, CBO estimates that, in aggregate, the intergovernmental mandates in the bill would impose costs on state, local, and tribal governments totaling more

than $600 million over fiscal years 2005 through 2009. CBO estimates that the costs in at least one of those years would exceed the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation). The bill would authorize appropriations for grants to states to cover such costs.

Intergovernmental mandates with significant costs

Driver's Licenses. H.R. 10 would effectively require state agencies that issue driver's licenses to comply with new standards for producing, verifying, and ensuring the security of driver's licenses and identification cards. Those provisions would be effective three years after the bill's enactment. CBO considers these standards to be mandates because any driver's licenses issued after that time would be invalid for federal identification purposes unless they met those requirements.

Based on information from AAMVA and other groups representing state and local governments, CBO expects that states would face significant additional costs to administer the new system. Specifically, state licensing agencies would be required to verify, with the issuing agency, each document presented as proof of identification and residency. Agencies such as the Social Security Administration currently charge a fee for each verification, and assuming that other agencies would charge similar fees, states would incur ongoing costs as well as one-time costs to upgrade computer systems to meet those requirements. States also would face significant costs to upgrade computer systems to digitize and store electronic copies of all source documents and to create and maintain the Driver's License Agreement, an interstate database to share driver information. Finally, certain states that do not currently require background checks for certain employees would face additional costs to complete those checks.

CBO assumes that states would begin to establish procedures for complying with these standards in 2005, the year following the bill's enactment; we estimate that they would incur additional costs totaling $80 million during that first year and another $80 million over fiscal years 2006 through 2009.

Issuance and Verification of Vital Statistics Information. H.R. 10 also would impose several intergovernmental mandates with significant costs on state, local, and tribal agencies that issue birth and death certificates. Those agencies would effectively be required to print birth certificates on safety paper, to establish a central database of vital information, and to ensure that certain employees have security clearances. Those provisions also would be effective three years after the bill's enactment. Certificates issued after that date would be invalid for certain purposes unless they met those requirements. We estimate that state, local, and tribal governments would face additional costs to comply with those requirements totaling more than $70 million in 2005, and almost $400 million over fiscal years 2006 through 2009. Most of those costs would be for upgrading computer software and hardware, and for staff time to convert existing paper records into electronic records. These are mostly one-time costs that would be incurred over the five-year period.

Mandates with No Significant Costs. The bill also contains several other inter-governmental mandates, but CBO expects that

they would probably not impose significant additional costs on state, local, or tribal governments. Specifically, the bill would:

• Require state licensing agencies to include minimum features on all driver's license and identification cards, including full legal name, date of birth, gender, driver's license or identification number, photo, legal address, physical security features, and machine-readable technology. According to AAMVA, all states currently include these minimum features on licenses.

• Require state agencies to meet minimum standards before issuing driver's licenses, including documenting the individual's name, date of birth, address, and proof of Social Security number. While states currently set their own standards for such information, all states currently require at least this minimum documentation.

• Require states to maintain a database of driver information; require states to implement training classes for employees to identify fraudulent documents; and require documents and supplies to be securely stored. According to state officials, all states currently comply with those requirements.

• Require offices that maintain vital information to comply with requirements for securing their buildings. Based on information from representatives of state offices of vital statistics, CBO believes that most offices already would be in compliance, assuming that the Secretary of the Department of Homeland Security would establish minimum security requirements in any event.

• Require that state and local governments limit access to birth and death certificates. Fourteen states currently allow public access to those records, but CBO estimates that they would incur no additional costs to limit access.

• Prohibit states from accepting any foreign document, other than an official passport, for identification purposes for the issuance of driver's licenses. Currently, at least 10 states accept identification cards issued by foreign governments, such as the "matricula consular" issued by Mexico. This prohibition would preempt state authority.

• Require states to resolve any discrepancies that arise from verifying Social Security numbers, though the language is unclear as to what specific actions would be required. Currently, at least two states prohibit their employees from enforcing immigration laws, and many of those discrepancies may be related to immigration. This requirement might preempt those state laws.

• Prohibit states from displaying Social Security numbers on drivers' licenses or from including Social Security numbers (SSNs) in bar codes, magnetic strips, or similar devices. CBO has found few instances where states used SSNs as identifiers on licenses or coded SSNs in some other manner on the license.

• Require all law enforcement officers who are armed, including state and local personnel, to have a standardized credential when traveling on aircraft. CBO assumes TSA would establish and issue such credentials.

Estimated impact on the private sector: The bill contains no private-sector mandates as defined in UMRA.

Previous CBO estimates: On October 4, 2004, CBO transmitted a cost estimate for H.R. 10 as ordered reported by the House Committee on Armed Services on September 29, 2004. The two versions

of the bill are almost identical. The differences in the legislation do not affect the estimated costs of either bill. Thus, the two CBO estimates are identical.

On September 24, 2004, CBO transmitted a cost estimate for S. 2840, the National Intelligence Reform Act of 2004, as reported by the Senate Committee on Governmental Affairs. Both bills would create a new Office of the National Intelligence Director and reform certain aspects of the intelligence community. H.R. 10 also would reform terrorism prevention and prosecution, border security, and international cooperation and coordination activities—areas not addressed by S. 2840. Differences in the estimated costs reflect differences between the two bills.

Estimate prepared by: Federal Costs: Intelligence Programs: Raymond J. Hall. Homeland Security: Megan Carroll and Julie Middleton. Justice: Mark Grabowicz. Vital Records: Timothy J. Gronniger. International Programs: Joseph C. Whitehill. General Government: Matthew Pickford.

Impact on State, Local, and Tribal Governments: Melissa Merrell.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 10, the "9/11 Recommendations Implementations Act", will help fulfill the Constitutional responsibility of the Federal Government by improving both the Security of the United States and the performance of the United States Intelligence Community. In accordance with Clause (3)(c) of House Rule XIII, the goals of H.R. 10 to provide for Intelligence Community and other government agency reform, improved terrorism prevention and prosecution, increased border security, and enhanced international cooperation and coordination. The overall goals of this legislation are to prevent terrorist attacks against the United States and her interests while better positioning our vital Intelligence Community to meet the global threats of the future. The Committee expects the Office of the National Intelligence Director, the agencies and departments within the Intelligence Community and other agencies and departments affected in H.R. 10 to implement the changes to the law in accordance with these stated goals.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, of the Constitution.

COMMITTEE COST ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 10. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

ADDITIONAL VIEWS OF REPRESENTATIVE RUSH HOLT

I voted against this bill because it does not come close to addressing many of the key issues raised by the 9/11 Commission in its final report, especially the issue of improving Congressional oversight of the intelligence community. Our constituents have asked Congress to reform the intelligence community because of an evident lack of coordination among agencies, a confirmed failure to communicate, and repeated instances of the use of questionable assumptions and faulty conclusions. H.R. 10 would create a weak director with no real authority to correct the problems.

With regard to this legislation's proposed budget and personnel authorities for the National Intelligence Director, I share the view expressed by 9/11 Commission chairman Tom Kean (Washington Post, October 1): "This is not an area where one can compromise," he said. "If you're not going to create a strong national intelligence director, with powers both appointive and over the budget, don't do it."

Overview

The House Permanent Select Committee on Intelligence markup of H.R. 10, the 9/11 Recommendations Implementation Act, was historic—the first public markup of intelligence legislation in at least ten years.

As the Chairman and Ranking Member indicated during the markup session, the Committee considered only the portions of H.R. 10 that pertained to intelligence reorganization—namely, Title I and discrete sections in Titles III and V that were within the jurisdiction of this Committee.[1] The Chairman and Ranking Member agreed that Members were not being asked to endorse portions of the bill in titles II through V outside of the Committee's expertise and jurisdiction.

Align H.R. 10 with Collins-Lieberman

Our efforts in the markup were aimed at strengthening H.R. 10, making it more consistent with the 9/11 Commission's recommendations and with the bipartisan Collins-Lieberman bill (S. 2845) being debated in the U.S. Senate.

In my view, the Collins-Lieberman bill provides the best vehicle for strengthening the Intelligence Community. The 9/11 Commission and the 9/11 families have endorsed it, and it was reported unanimously out of the Senate Government Affairs Committee. The Administration also released a Statement of Administration Policy supporting the bill, with limited reservations.

[1] Title 111, sections 3101, 3102, 3103, 3104. Title V, sections 5021, 5071, 5072, 5073, 5074, 5074, 5076, 5077, 5078.

A copy of the Statement was made part of the mark-up record upon a Unanimous Consent request by Ranking Member Harman.

The Collins-Lieberman bill establishes a National Intelligence Director with strong authorities over the Intelligence Community's budget and a decisive role in appointing the heads of all elements of the Intelligence Community. In this way, S. 2845 is consistent with the recommendations of the 9/11 Commission which were built, in part, on H.R. 4104, a bill all nine Democratic members of this Committee introduced on April 1, 2004. The creation of a strong National Intelligence Director with strong authorities over budgets and agency heads was also the number one recommendation of the bipartisan, bicameral Congressional Joint Inquiry into 9/11, on which many members of this Committee on both sides of the aisle served.

In my view, H.R. 10 is too weak. If the National Intelligence Director is going to have real power, he or she must have stronger budget and hiring authority than H.R. 10 proposes. The only way to get a dozen intelligence agencies to work together to defeat terrorism is to have a single director with real power.

The Collins-Lieberman bill also has the advantage of being a "clean" bill. It focuses exclusively on the 9/11 Commission's recommendations. In contrast, H.R. 10 is a 542-page bill loaded with provisions unrelated to the 9/11 Commission's recommendations. Some of these provisions are useful, but I disagree with many others. H.R. 10 makes changes to immigration laws that have nothing to do with the 9/11 Commission's recommendations, and are bad policy. The purpose of this legislation must be to make America safer—not to undermine civil liberties, expand authorities for domestic spying, or erode the rights of immigrant communities.

Finally, the Collins-Lieberman bill is 100% bipartisan. It is battle-tested, the product of two intense days of Committee mark-up where all amendments to weaken the bill were defeated on a bipartisan basis, and the bill was reported unanimously. Making America safer is not a Republican issue or a Democratic issue—it is an American issue. Terrorists are not going to check our party labels before they attack us.

Serious flaws with H.R. 10

The bill before the committee would also add other changes unjustified by the 9/11 Commission or by the committee's own findings. H.R. 10 fails to address the ongoing problems in the intelligence community with regard to information sharing. Congress must craft specific legislative language—not simply vague guidance to the executive branch—to create a mechanism for ensuring the sharing of information. I posed an amendment that would have done that by implementing the thoughtful, bipartisan solution incorporated in the Collins-Lieberman bill.

H.R. 10 also ignores the need for Congress to create an independent capability for judging the veracity of both finished assessments—be they NIE's or PDB's—and the sources that underpin those assessments. The executive branch's past failures in the area of "Red Teams" or "Team B's" has been well documented, including by the 9/11 Commission in its final report. Omitting this glaring necessity is simply irresponsible.

Bipartisan atmosphere a welcome change in Committee

The winds of bipartisanship are blowing once again through this Committee, and that is very good news. The Chairman and the Ranking Member worked together to find common ground on this legislation. Although the two sides do not agree on everything, we greatly appreciate the Chairman's willingness to consult in preparing for and in marking up H.R. 10.

With limited exceptions, H.R. 10 was not drafted in a bipartisan manner. It remains to be seen how bipartisan the rest of the process will be. It is critical that we have an open process that allows amendments to the bill to remove the extraneous provisions and to strengthen the National Intelligence Director's authorities in line with the Collins-Lieberman legislation.

Additional amendments offered

All of the following amendments offered were in the spirit of strengthening H.R. 10 and strengthening our capabilities against terrorists.

I was pleased that the Committee approved three amendments in a bipartisan fashion.

Ranking Member Harman's amendment to add an independent Privacy and Civil Liberties Oversight Board, similar to a provision of S. 2845, passed on a bipartisan vote of 16–3. The Board would ensure that concerns with respect to civil liberties and privacy are appropriately considered in the development and implementation of laws, regulations, and policies relegated to efforts of the Intelligence Community to protect the Nation against terrorism. The inclusion of a civil liberties board independent of the Executive branch is a critical element of responsible legislation to implement the recommendations of the 9/11 Commission. Security and civil liberties must be mutually reinforcing. The goal of this legislation is to make this country safer, not to undermine civil liberties or erode the rights of immigrant communities.

An amendment by Representative Gibbons to increase budget-reprogramming authority, modeled on the Intelligence Transformation Act (H.R. 4104), passed 12–7. I supported the Gibbons Amendment.

The Committee also accepted on a voice vote an amendment by Representatives Peterson and Boswell to strike a provision in Title V of H.R. 10 that would have allowed the President to ignore statutory direction and reorganize the Intelligence Community with only an up-or-down vote from Congress. Such a provision could conceivably be used to erase the reorganization of the Intelligence Community in Title I. It would also have undermined this Committee's oversight of Intelligence Community reorganization.

Additional amendments offered were designed to strengthen the bill and our capabilities against terrorists.

Ranking Member Harman and Representatives Boswell and Cramer introduced an amendment to strengthen the budget and personnel authorities of the National Intelligence Director, consistent with the Collins-Lieberman legislation and to declassify the "top-line" of the intelligence budget. Representatives Reyes and Ruppersberger offered an amendment to strengthen the National Intelligence Director's personnel appointment authorities. Rep-

resentative Eshoo and I offered an amendment to strengthen the quality of analysis in National Intelligence Estimates. Representatives Boswell and Reyes offered an amendment to strike provisions undermining the Senate's confirmation powers regarding the National Intelligence Director.

Although these amendments were defeated on party-line votes, my colleagues and I will continue to push to make this legislation consistent with the Collins-Lieberman legislation and the 9/11 Commission's recommendations. We intend to offer these and other amendments on the House floor to cure deficiencies in the legislation. For example, the National Counter Terrorism Center provision must be improved. The bill ought to include specific direction on the development and operation of an Intelligence Community information sharing network. Instilling jointness in the Intelligence Community through mandatory personnel rotations should also be included.

Finally, Ranking Member Harman offered an amendment to express a Sense of the House that the Collins-Lieberman legislation replace H.R. 10 when the bill is considered on the floor. A point of order was raised, and the Chairman sustained the point of order. Upon appeal by Ranking Member Harman, a motion to table the appeal was agreed to on a party-line vote.

The goal is to improve intelligence against 21st century threats

We cannot take our eyes off the ultimate goals: strengthening the Intelligence Community; putting one person in charge with authority, responsibility, and accountability; and moving from a Cold War model to a more nimble, effective organization to meet and defeat 21st century threats.

In so doing, we honor the families of the 9/11 victims, who are the moral authority behind our work. Their silent witness—in our hearings and now as we move this legislation forward—is the most powerful reminder to do everything we can to prevent another 9/11. The legacy and memory of their loved ones demand nothing less.

We also thank and praise the men and women of the Intelligence Community. They work tirelessly in the shadows to keep all of us safer. Congress must do its part to provide stronger tools and stronger leadership to help them in the job of protecting America.

RUSH HOLT.

ADDITIONAL VIEWS

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Favorable vote—Move intelligence reform forward

We voted to report the bill from Committee because we feel it is urgent to move the process forward. It would be a disservice to the 9/11 families, to the spirit of the 9/11 Commission's recommendations, to our responsibilities as overseers of the Intelligence Community, and to the nation as a whole if we were to let intelligence reform die in this Committee. We made clear that we do not support H.R. 10 as drafted and were disappointed that some of our amendments to strengthen provisions of the bill in our Committee were defeated. There will be later opportunities to fix H.R. 10 on the House floor or in conference with the Senate.

The serious problems with the bill must be fixed before we will ultimately support passing it into law.

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JANE HARMAN.
SILVESTRE REYES.
LEONARD L. BOSWELL.
COLLIN C. PETERSON.
BUD CRAMER.
ANNA ESHOO.
C.A. DUTCH RUPPERSBERGER.

DISSENTING VIEWS

I wanted to stipulate for the record that a number of things have taken place long before the 9/11 Commission was appointed and long before the 9/11 Commission report was issued. Immediately following what took place in New York and Washington, the loss of 3,000 American lives, President Bush and his team and the Congress put together a homeland security agency and put together 22 agencies at a cost of $40 billion. We created a TSA agency at all major airports at $5.2 billion. These airports are now secure and people feel safe flying. We gave the airline industry $15 billion.

We enacted the PATRIOT Act, which now allows law enforcement agencies all over this country to communicate with one another and has allowed us and our law enforcement people to arrest people in Buffalo, New York and Portland, Orego, who are here for no other good other than to hurt America.

We contributed between 20 and $40 billion to the City of New York to clean up what needed to be done after 9/11 and to compensate the families. We authorize, and are recruiting, a thousand new CIA agencies and a thousand new FBI agents. And they are coming online. We created TTIC. We created the JTTF in every major city in this country, and the FBI has been reorganized under Director Mueller in a way that I think the main message is that terrorism is their number one agenda.

We invaded Afghanistan at a cost of $18 billion to the taxpayers, dismantled al Qaeda, and disrupted the al Qaeda network that attacked our country. We have invaded Iraq. And for the first time in the history of the country, there will be elections to elect their leaders in Iraq in January, and new leadership is in place.

The bottom line is, for the last 3 years, America has not been attacked. The President of the United States, President Bush and his team, and this Congress deserve some credit for that. That was well before anybody dreamed up a 9/11 Commission and well before there were any recommendations.

So the idea that somehow this President, or this Congress, has been sitting around on its hands wasting time waiting for something to happen is nonsense. We have gone after the terrorists, and we have taken the war on terror to the terrorists, and it has been effective. America has not been attacked for 3 years, and there are a lot of people in this town and other places working in dark places in the world that work for the CIA and the FBI THAT deserve the lion's share of the credit for that.

We have CIA agents embedded in the FBI and FBI agents embedded in the CIA. The Director of the FBI and the CIA talk every day. This bill that we are considering was cobbled together in the last few days by a few staff people that work for our leadership, presented to us, put on our desk last Friday with little or no input from any member of this committee, and it is a cobbled together

bill. Now it may take some of the 9/11 recommendations, but to create another bureaucracy at the top of the Intelligence Community, another stovepipe makes no sense to me, particularly given the fact that there are a lot of things that have been accomplished since 9/11, a lot of good things, a lot of good communication and to create another bureaucracy and another stovepipe is not a good way to create public policy.

This is not a good bill. It is not a bipartisan bill. And I hope that everyone on this committee will look carefully at what we are doing here. This is a rush to judgment and a rush to try and create an atmosphere that Congress has done something 40 days before the election. I think this is not the right way to create public policy, and I hope that everybody on this committee will do what they can to read this bill to make sure that it makes sense for what we want to accomplish. We have accomplished a lot. Many deserve credit, and it wasn't done in 3 days or within 10 days after receiving recommendations from the 9/11 commission.

RAY LAHOOD.

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